

Tab 1	SB 160 by Bean ; Specialty License Plates/Ducks Unlimited and Fallen Law Enforcement Officers					
Tab 2	SB 172 by Brandes (CO-INTRODUCERS) Galvano ; License Plates for Persons with Disabilities					
Tab 3	SB 544 by Brandes ; Procurement Procedures					
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Tab 5	SB 382 by Book ; (Identical to H 00205) Transportation Facility Designations/Deputy Ryan Seguin Memorial Highway					
Tab 6	SB 346 by Perry ; (Similar to H 00583) Motorcycle and Moped Riders					
779198	A	S	RCS	TR, Perry	Delete L.36 - 46:	11/15 10:46 AM
Tab 7	SB 504 by Perry ; (Similar to H 00215) Autocycles					
Tab 8	SB 572 by Mayfield (CO-INTRODUCERS) Gainer ; (Similar to H 00525) High-speed Passenger Rail					
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

TRANSPORTATION
Senator Gainer, Chair
Senator Rouson, Vice Chair

MEETING DATE: Tuesday, November 14, 2017

TIME: 2:00—4:00 p.m.

PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Gainer, Chair; Senator Rouson, Vice Chair; Senators Baxley, Galvano, Hukill, Rader, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 160 Bean	Specialty License Plates/Ducks Unlimited and Fallen Law Enforcement Officers ; Establishing an annual use fee for the Ducks Unlimited license plate; revising the distribution of proceeds for the Fallen Law Enforcement Officers license plate, etc. TR 11/14/2017 Favorable ATD AP	Favorable Yeas 6 Nays 0
2	SB 172 Brandes	License Plates for Persons with Disabilities; Requiring the Department of Highway Safety and Motor Vehicles, upon application, to issue a specified license plate to the owners or lessees of motor vehicles who reside in this state and who qualify for two other specified license plates; providing that the license plate entitles the person to specified privileges, etc. TR 11/14/2017 Favorable ATD AP	Favorable Yeas 6 Nays 0
3	SB 544 Brandes	Procurement Procedures; Specifying the applicability of procedures for the resolution of protests arising from the contract solicitation or award process for certain procurements by specified transportation, expressway, and bridge authorities, etc. TR 11/14/2017 Temporarily Postponed ATD AP	Temporarily Postponed
4	SB 322 Book (Identical H 185)	Fees Charged by Tax Collectors; Providing for allocation of fees from certain driver license examinations administered by tax collectors; providing for allocation of fees from certain driver license reinstatement services performed by tax collectors, etc. TR 11/14/2017 Favorable ATD AP	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Transportation

Tuesday, November 14, 2017, 2:00—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 382 Book (Identical H 205)	Transportation Facility Designations/Deputy Ryan Seguin Memorial Highway ; Providing honorary designation of a certain transportation facility in a specified county; directing the Department of Transportation to erect suitable markers, etc. TR 11/14/2017 Favorable ATD AP	Favorable Yeas 6 Nays 0
6	SB 346 Perry (Similar H 583)	Motorcycle and Moped Riders; Increasing the age at which persons who are operating or riding upon a certain motorcycle are exempt from protective headgear requirements, etc. TR 10/24/2017 Temporarily Postponed TR 11/14/2017 Fav/CS ATD AP	Fav/CS Yeas 6 Nays 0
7	SB 504 Perry (Similar H 215)	Autocycles; Defining the term "autocycle"; requiring safety belt or, if applicable, child restraint usage by an operator or passenger of an autocycle; including an autocycle in the definition of the term "motorcycle"; authorizing a person to operate an autocycle without a motorcycle endorsement, etc. TR 11/14/2017 Favorable ATD AP	Favorable Yeas 6 Nays 0
8	SB 572 Mayfield (Similar H 525)	High-speed Passenger Rail; Designating the "Florida High-Speed Passenger Rail Safety Act"; providing powers and duties of the Florida Department of Transportation; requiring the Florida Division of Emergency Management to offer, under certain circumstances, the local communities and local emergency services located along the rail corridor training specifically designed to help them respond to an accident involving rail passengers or hazardous materials; requiring a railroad company operating a high-speed passenger rail system to be solely responsible for certain maintenance, improvement, and upgrade costs, etc. TR 11/14/2017 Fav/CS CA AP	Fav/CS Yeas 6 Nays 0

Other Related Meeting Materials

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 160

INTRODUCER: Senator Bean

SUBJECT: Specialty License Plates/Ducks Unlimited and Fallen Law Enforcement Officers

DATE: November 8, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 160 directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop a Ducks Unlimited specialty license plate, establishes a \$25 annual use fee for the plate, and provides the distribution and use of fees collected from the sale of the plate.

The bill also amends the distribution of the Fallen Law Enforcement Officers specialty license plate, providing the Police and Kids Foundation, Inc. the ability to use proceeds from the sale of the plate for the foundation.

The DHSMV estimates programming and implementation will cost \$10,980. The DHSMV is authorized to retain revenues from the first proceeds of sales to defray departmental costs.

The bill takes effect October 1, 2018.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.¹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.² The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute.³

¹ A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited Nov. 3, 2017).

² Section 320.08056, F.S.

³ Section 320.08058, F.S.

In order to establish a specialty license plate, s. 320.08053, F.S., requires the plate must first be adopted into statute. Upon becoming law:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;
- Within 120 days, the DHSMV must establish a method to issue pre-sale vouchers for the approved specialty license plate; and
- Within 24 months after the pre-sale vouchers are established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin.

If, at the end of the 24-month pre-sale period, the minimum sales requirement has not been met, the DHSMV will discontinue the plate and issuance of the pre-sale voucher. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.⁴

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁵ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁶

DHSMV Costs Defrayed

The DHSMV is authorized to retain sufficient annual use fees from the sale of specialty plates to defray its costs for inventory, distribution, and other direct costs associated with the program. The remainder of the proceeds collected are distributed as provided by law.⁷

Discontinuance of Specialty Plates

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates. Collegiate plates for Florida universities are exempt from the minimum plate requirement.⁸ In addition, DHSMV is authorized to discontinue any specialty license plate if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.⁹

Ducks Unlimited, Inc.¹⁰

Ducks Unlimited, Inc. is a non-profit, volunteer-based organization whose mission is to conserve, restore, and manage wetlands and associated habitats for North America's waterfowl.

⁴ Section 320.08053(2)(b), F.S.

⁵ Section 320.08056(10)(a), F.S.

⁶ Section 320.08062, F.S.

⁷ Section 320.08056(7), F.S.

⁸ Section 320.08056(8)(a), F.S.

⁹ Section 320.08056(8)(b), F.S.

¹⁰ See Ducks Unlimited website, <http://www.ducks.org/> (last visited Nov. 3, 2017).

The organization was created in 1937, and currently has habitat projects in all 50 states, every Canadian province, and key areas of Mexico and Latin America. According to the Ducks Unlimited website, Ducks Unlimited is the world's leader in wetlands and waterfowl conservation.

In Fiscal Year 2016, the organization reported receiving revenues and support of over \$221 million, with 84 percent going to wetlands and waterfowl conservation and education.¹¹

Currently, the Ducks Unlimited specialty license plate is available in 21 states.¹²

Fallen Law Enforcement Officers Specialty License Plate

The Fallen Law Enforcement Officers specialty license plate was created by law in 2014.¹³ As of October 9, 2017, the plate had 6,551 active registrations.¹⁴ Proceeds from sale of the plate are distributed to the Police and Kids Foundation, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plate, and the remaining proceeds are invested and reinvested. Section 320.08058(80), F.S., authorizes the foundation to use only the interest earnings from such investments for the operation of the foundation.¹⁵

III. Effect of Proposed Changes:

The bill directs the DHSMV to create a Ducks Unlimited specialty license plate, with an annual fee of \$25 to be distributed to Ducks Unlimited, Inc. The organization may use up to 5 percent of the fees for administrative costs and marketing of the plate, and at least 95 percent of fees must be used in Florida to support the organization's mission and efforts for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

The plate must bear the colors and design approved by the DHSMV, with the word "Florida" at the top of the plate, and the words "Conserving Florida Wetlands" at the bottom of the plate.

The bill also amends the distribution of the Fallen Law Enforcement Officers specialty license plate by authorizing the Police and Kids Foundation, Inc. to use up to 10 percent of proceeds from the sale of the plate for marketing and the remainder to be used for the foundation's operations, activities, programs, and projects.

The bill takes effect October 1, 2018.

¹¹ Ducks Unlimited website, *2016 Annual Report*, <http://www.ducks.org/about-ducks-unlimited/ducks-unlimited-financial-information/du-2016-annual-report> (last visited Feb. 13, 2017).

¹² DHSMV, *2018 Agency Legislative Bill Analysis – SB 160* (Oct. 23, 2017) (on file with the Senate Committee on Transportation).

¹³ Chapter 2014-168, Laws of Florida

¹⁴ DHSMV Analysis *supra* note 12.

¹⁵ Section 320.08058(80), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Individuals who choose to purchase a Ducks Unlimited specialty license plate will pay a \$25 annual use fee in addition to appropriate license taxes and fees. Ducks Unlimited, Inc. will receive revenue from each Ducks Unlimited plate purchase.

The Police and Kids Foundation, Inc. will be able to use proceeds remaining after marketing from the sale of the Fallen Law Enforcement Officers license plate for its operations, activities, programs, and projects.

C. Government Sector Impact:

The DHSMV estimates programming and implementation of the plate will cost \$10,980.¹⁶ The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁶ DHSMV, *2017 Agency Legislative Bill Analysis: SB 56* (Jan. 6, 2017) (on file with the Senate Committee on Transportation).

¹⁷ Section 320.08056(7), F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.08056 and 320.08058.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Bean

4-00283-18

2018160__

A bill to be entitled

An act relating to specialty license plates; amending s. 320.08056, F.S.; establishing an annual use fee for the Ducks Unlimited license plate; amending s. 320.08058, F.S.; revising the distribution of proceeds for the Fallen Law Enforcement Officers license plate; requiring the Department of Highway Safety and Motor Vehicles to develop a Ducks Unlimited license plate; providing for distribution and use of fees collected from the sale of the plates; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (ffff) is added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ffff) Ducks Unlimited license plate, \$25.

Section 2. Paragraph (b) of subsection (80) of section 320.08058, Florida Statutes, is amended and subsection (84) is added to that section, to read:

320.08058 Specialty license plates.—

(80) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.—

(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use up to a maximum of 10 percent of the proceeds for marketing to promote and market the plate. All remaining proceeds shall be distributed to and used

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4-00283-18

2018160__

by the Police and Kids Foundation, Inc., for its operations, activities, programs, and projects. The remainder of the proceeds shall be used by the Police and Kids Foundation, Inc., to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc.

(84) DUCKS UNLIMITED LICENSE PLATES.—

(a) The department shall develop a Ducks Unlimited license plate as provided in this section and s. 320.08053. Ducks Unlimited license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Ducks Unlimited, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to be used as follows:

1. Up to 5 percent may be used for administrative costs and marketing of the plate.

2. A minimum of 95 percent shall be used in this state to support the mission and efforts of Ducks Unlimited, Inc., to conserve, restore, and manage Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

Section 3. This act shall take effect October 1, 2018.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/17

Meeting Date

SB 160

Bill Number (if applicable)

Topic Licenses Plates / Ducks Unlimited

Amendment Barcode (if applicable)

Name Brittany Dover

Job Title _____

Address 119 S. Monroe St.

Street

Phone _____

Tallahassee

City

FL

State

32301

Zip

Email brittanyd@hgslaw.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Ducks Unlimited

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-14-2017
Meeting Date

160
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

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Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 172

INTRODUCER: Senator Brandes

SUBJECT: License Plates for Persons with Disabilities

DATE: November 8, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 172 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to create a Purple Heart license plate stamped with the international symbol of accessibility. The plate is available to persons who qualify for both the Purple Heart military license plate and the Disabled Veteran license plate with the international symbol of accessibility. The plate will be issued to the disabled veteran without payment of the license tax. The eligible registrant is entitled to the same benefits available to individuals with the Disabled Veteran license plate.

It is unknown how many individuals qualify for and will apply for the plate. DHSMV estimates program and implementation of the plate will cost \$7,680.

The bill takes effect July 1, 2018.

II. Present Situation:

Currently, there are 21 special military license plates authorized in s. 320.089, F.S., available to military service members or veterans.¹ Special military license plates authorized under s. 320.089, F.S., are stamped with words consistent with the type of special plate issued, and a likeness of the related campaign medal, ribbon, or badge appears on the plate.² None of these plates are stamped with the international symbol of accessibility.

¹ The 21 military special plates currently offered in s. 320.089, F.S., include plates available for the following types of service: Veteran or Woman Veteran of the U.S. Armed Forces; World War II, Korean War, or Vietnam War Veteran; Navy Submariner; Active or retired National Guard member or U.S. Reservists; Pearl Harbor survivor; recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, Distinguished Flying Cross, or Purple Heart; former Prisoner of War; and service members or veterans of Operation Desert Shield, Desert Storm, Enduring Freedom, and Iraqi Freedom.

² For plate samples, see DHSMV, *Military License Plates*, available at <http://www.flhsmv.gov/specialtytags/miltags.html> (last visited Nov. 3, 2017).

Disabled Veteran (DV) License Plate

A disabled veteran is eligible for one free DV license plate if he or she has been a resident of Florida for the preceding five years or has established a domicile in this state, has been honorably discharged from the U.S. Armed Forces, and provides proof that he or she:

- Has a vehicle initially acquired through financial assistance by the United States Department of Veterans Affairs (VA) or its predecessor specifically for the purchase of an automobile;
- Has been determined by the VA or its predecessor to have a service-connected 100 percent disability rating for compensation; or
- Has been determined to have a service-connected disability rating of 100 percent and receives disability retirement pay from any branch of the U.S. Armed Forces.³

Section 316.1964, F.S., prohibits a state agency, county, municipality, or any agency thereof from charging a person with a DV license plate, from parking fees on public streets, or in timed or metered parking if the vehicle is transporting the person to whom the plate was issued. Additionally, a publicly owned or publicly operated airport must also grant free parking to a vehicle displaying a DV license plate.

DV License Plate with the International Symbol of Accessibility

Section 320.0842, F.S., provides that a disabled veteran is eligible for a free DV license plate stamped with the international symbol of accessibility if he or she is eligible for both the DV license plate and proves that due to a service-connected disability he or she permanently uses a wheelchair or otherwise qualifies for a disabled parking permit.

A person must be certified by a licensed physician, podiatrist, optometrist, advanced registered nurse practitioner, physician's assistant, or a similarly licensed physician from another state⁴, as being legally blind, or as having any of the following conditions which would render the person unable to walk 200 feet without stopping to rest to qualify for a disabled parking permit:

- Inability to walk without a brace, cane, crutch, prosthetic device, or other assistive device, or without the assistance of another person;
- The need to permanently use a wheelchair;
- A restriction by lung disease;⁵
- The use of portable oxygen;
- A restriction by cardiac condition;⁶ or
- A severe limitation in the ability to walk due to an arthritic, neurological, or orthopedic condition.⁷

³ Section 320.084(1), F.S.

⁴ If a certification of disability is provided by a similarly licensed physician from another state, the application must also include documentation of the physician's licensure in the other state and a form signed by the out-of-state physician verifying their knowledge of Florida's eligibility guidelines; s. 320.0848(1)(b)2., F.S.

⁵ The restriction must be "to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or the person's arterial oxygen is less than 60 mm/hg on room air at rest"; s. 320.0848(1)(b)1.c., F.S.

⁶ The restriction must be "to the extent that person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association"; s. 320.0848(1)(b)1.e., F.S.

⁷ Section 320.0848(1)(b)1., F.S.

As of October 9, 2017, there were 13,248 active plate registrations for the DV plate stamped with the international symbol of accessibility. It is unknown how many of these registrants would also qualify for the Purple Heart license plate.⁸

Purple Heart License Plate and Medal

The Purple Heart license plate is available to an owner or lessee of a private use vehicle who is a Florida resident and has received the Purple Heart medal.⁹ The plate is also available to a Florida resident who is the unremarried surviving spouse of a Purple Heart medal recipient.¹⁰

Section 320.089(1), F.S., provides that an applicant for the Purple Heart license plate who also qualifies for a DV license plate shall be issued the plate without payment of the license tax.

The Purple Heart is one of the oldest and most recognized American military medals, awarded to service members who were killed or wounded by enemy action. The Purple Heart differs from all other decorations in that an individual is not “recommended” for the decoration; rather he or she is entitled to it upon meeting specific criteria.¹¹

The award is given in the name of the President of the United States to a member of the U.S. Armed Forces who, while serving under component authority in any capacity after April 5, 1917, was wounded or killed:

- In any action against an enemy of the U.S;
- In any action with an opposing armed force of a foreign country in which the Armed Forces of the U.S. are, or have been engaged;
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the U.S. is not a belligerent party;
- As a result of an act of any such enemy of opposing armed forces;
- As the result of an act of any hostile foreign force;
- As a result of an international terrorist attack against the U.S. or a foreign nation friendly to the U.S; or
- As a result of military operations while serving outside the territory of the U.S. as part of the peacekeeping force.¹²

As of October 9, 2017, there were 11,752 active Purple Heart plate registrations in Florida. Of those, 2,038 of the plates were issued to individuals who also qualify for a DV license plate.¹³ Of the 2,038, the number of those who qualify for the DV license plate stamped with the symbol of accessibility is unknown.

⁸ DHSMV, *2018 Agency Legislative Bill Analysis – SB 172* (Nov. 6, 2017) (on file with the Senate Committee on Transportation).

⁹ Section 320.089(1)(a), F.S.

¹⁰ Section 320.089(3), F.S.

¹¹ Paragraph 1-17(d), Army Regulation 600-8-22 (June 25, 2015).

¹² Paragraph 2-8(a), Army Regulation 600-8-22 (June 25, 2015).

¹³ DHSMV Analysis, *supra* note 8.

III. Effect of Proposed Changes:

The bill requires the DHSMV to create a Purple Heart license plate stamped with the term “Combat-wounded Veteran” and the international symbol of accessibility. The plate is available to persons who qualify for both the Purple Heart military license plate and the Disabled Veteran license plate stamped with the international symbol of accessibility. The plate is issued to the disabled veteran without payment of a license tax, and the eligible applicant must be noted on the registration certificate if the registration lists more than one registrant. Additionally, the eligible registrant is entitled to the same benefits available to individuals with a DV license plate.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill may reduce the authority of counties and municipalities to raise revenues because it would eliminate their ability to charge the operator of a vehicle displaying a Purple Heart Disabled Veteran license plate for parking in certain facilities. Article VII, s. 18(b) of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law that reduces the authority of municipalities and counties to raise revenues in the aggregate. Article VII, s. 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. It is likely this bill will have an insignificant fiscal impact to local government.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive impact on individuals who qualify for both plates, but choose to display a Purple Heart license plate, which does not entitle them to the same free parking benefits as the DV license plate.

C. Government Sector Impact:

It is unknown how many individuals qualify for and will apply for the plate. DHSMV estimates program and implementation of the plate will cost \$7,680.¹⁴

The bill may have a negative, but likely insignificant, impact on local governments who are required to grant free parking in certain circumstances to individuals displaying such license plate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 320.0842 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁴ DHSMV Analysis, *supra* note 8.

By Senator Brandes

24-00292-18

2018172__

A bill to be entitled

An act relating to license plates for persons with disabilities; amending s. 320.0842, F.S.; requiring the Department of Highway Safety and Motor Vehicles, upon application, to issue a specified license plate to the owners or lessees of motor vehicles who reside in this state and who qualify for two other specified license plates; specifying requirements for the plate; providing that the license plate entitles the person to specified privileges; requiring the name of the eligible applicant to be noted on the registration certificate when more than one registrant is listed; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) is added to section 320.0842, Florida Statutes, to read:

320.0842 Free motor vehicle license plates to veterans who use wheelchairs.—

(5) Upon application by an owner or lessee of a motor vehicle who resides in this state and qualifies for a license plate under this section and a Purple Heart license plate under s. 320.089, the department shall issue a license plate stamped with the term "Combat-wounded Veteran" followed by the serial number of the license plate and the international symbol of accessibility. The license plate entitles the person to all privileges afforded by a license plate issued under this section. When more than one registrant is listed on the

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24-00292-18

2018172__

registration issued under this section, the eligible applicant shall be noted on the registration certificate.

Section 2. This act shall take effect July 1, 2018.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14
Meeting Date

172
Bill Number (if applicable)

Topic License Plates

Amendment Barcode (if applicable)

Name Bill Helmich

Job Title Lobbyist

Address 120 S. Monroe St
Street

Phone 850 251 3126

Jellahiss FL 32301
City State Zip

Email bill@helmichconsulting.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing VFW, American Legion

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-14-2017

Meeting Date

172

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 544

INTRODUCER: Senator Brandes

SUBJECT: Procurement Procedures

DATE: November 3, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Pre-meeting
2.			ATD	
3.			AP	

I. Summary:

SB 544 requires transportation-related entities created under Chapters 343, 348, or 349, F.S., to use the uniform rules of procedure adopted pursuant to s. 120.54(5), F.S., for resolution of protests arising from certain contract solicitations or award processes. The uniform rules would apply to any procurement exceeding the Category Five threshold amount, or if the term of the procurement, including the number of days specified in the initial contract and the number of days specified in any authorized contract extension or renewal, exceeds 365 days.

The identified entities and bid protesters may incur some administrative and legal expenses associated with protests of the specified procurements. With respect to the identified entities, such costs may increase or decrease. However, because the existing processes used by such entities, and their associated costs, are unknown, the amounts of any increases or decreases is unknown. The amount of such expenses is also dependent on the number of bid protests and their complexity and is therefore unknown.

The Division of Administrative Hearings (DOAH) may incur insignificant expenses for conducting expedited hearings and issuing recommended orders.

See Section V., Fiscal Impact Statement, for details.

The bill takes effect July 1, 2018.

II. Present Situation:

Entities Created Under Chapters 343, 348, and 349, F.S.

The following entities are created under Chapter 343, F.S.:

- Northeast Florida Regional Transportation Commission: The Commission is charged with improving mobility and expanding multimodal transportation operations for persons and freight throughout the six-county North Florida region, including Baker, Clay, Duval, Nassau, Putnam, and St. John Counties.¹
- South Florida Regional Transportation Authority: The Authority is granted the right to own, operate, maintain, and manage a transit system in the tri-county area of Broward, Miami-Dade, and Palm Beach Counties,² known as Tri-Rail.
- Central Florida Regional Transportation Authority: The Authority is granted the right to own, operate, maintain, and manage a public transportation system in Seminole, Orange, and Osceola Counties,³ known as Lynx.
- Northwest Florida Transportation Corridor Authority: The Authority is charged with improving mobility on the U.S. 98 corridor⁴ in the Northwest Florida counties of Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, and Wakulla, to enhance traveler safety, identify and develop hurricane evacuation routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion.⁵
- Tampa Bay Area Regional Transit Authority: The Authority is charged with planning, implementing, and operating mobility improvements and expansions of multimodal transportation options for passengers and freight throughout the region of Hernando, Hillsborough, Manatee, Pasco, and Pinellas Counties; and with producing a regional transit development plan, integrating the transit development plans of participant counties, to include a prioritization of regionally significant transit projects and facilities.⁶

The following entities are created under Chapter 348, F.S.:

- Miami-Dade Expressway Authority: Created pursuant to the provisions of Part I of Chapter 348, F.S., the Authority is granted the right to acquire, hold, construct, improve, maintain, operate, and own an expressway system in Miami-Dade County.^{7, 8}

¹ Part I of Chapter 343, F.S., specifically, s. 343.1004(1), F.S.

² Part II of Chapter 343, F.S., specifically, s. 343.54(1)(a), F.S.

³ Part III of Chapter 343, F.S., specifically, s. 343.64(1)(a), F.S.

⁴ Defined in s. 343.805(9), F.S., to mean U.S. Highway 98 and any feeder roads, reliever roads, connector roads, bridges, and other transportation appurtenances, existing or constructed in the future, that support U.S. Highway 98 in the identified counties.

⁵ Part IV of Chapter 343, F.S., specifically, s. 343.82(1), F.S.

⁶ Part V of Chapter 343, F.S., specifically s. 343.922(1), F.S.

⁷ Part I of Chapter 348, F.S., the Florida Expressway Authority Act, authorizes any county or two or more contiguous counties within a single Florida Department of Transportation district, by resolution adopted by the board of county commissioners, to form an expressway authority. The Miami-Dade County Commission adopted ordinance 94-215 in 1994 creating the Miami-Dade County Expressway Authority, which is the only expressway authority created under Part I of Chapter 348, F.S.

⁸ Section 348.0004(12)(a), F.S.

- Tampa-Hillsborough County Expressway Authority: The Authority is granted the power to construct, reconstruct, improve, extend, repair, maintain and operate an expressway system in the metropolitan area of the City of Tampa or within any area of Hillsborough County.⁹
- Central Florida Expressway Authority: The Authority is granted the right to acquire, hold, construct, improve, maintain, operate, own, and lease the Central Florida Expressway System, serving Orange, Seminole, Lake, Brevard, and Osceola Counties.¹⁰
- Santa Rosa Bay Bridge Authority: The Authority is granted the right to acquire, hold, construct, improve, maintain, operate, own, and lease a bridge between Red Fish Point and Garcon Point in Santa Rosa County, known as the Garcon Point Bridge.¹¹
- Osceola County Expressway Authority: The Authority is granted the right to acquire, hold, construct, improve, maintain, operate, and own an expressway system in Osceola County.¹²

The following entity is created under Chapter 349, F.S.:

- Jacksonville Transportation Authority: The Authority is granted the right to acquire, hold, construct, improve, maintain, operate, own, and lease the Jacksonville Expressway System in the Jacksonville, Duval County, metropolitan area.¹³

The Administrative Procedure Act (APA or Act)

Located in Chapter 120, F.S., the APA “provides uniform procedures for the exercise of specified authority.”¹⁴ It sets up “a comprehensive administrative process by which agencies exercise the authority granted by the Legislature while offering opportunities for citizen involvement.” It also provides a “process [that] subjects state agencies to a uniform procedure in enacting rules and issuing orders and allows citizens to challenge an agency’s decision.”¹⁵

The Act’s central purpose is “to provide that basic fairness that should surround all governmental activity, such as:

- (1) The opportunity for adequate and full notice of agency activities;
- (2) The right to present viewpoints and to challenge the views of others;

⁹ Part II of Chapter 348, F.S., specifically, s. 348.53, F.S.

¹⁰ Part III of Chapter 348, F.S., specifically, s. 348.754, F.S.

¹¹ Part IV of Chapter 348, F.S., specifically s. 348.968, F.S. According to the Florida Transportation Commission’s Transportation Authority Monitoring and Oversight Report for 2016, the Authority last met in June of 2014 and is currently inactive, with toll operations provided by Florida’s Turnpike Enterprise and maintenance performed by the Department of Transportation’s District Three. See the Commission’s report at p. 71, available at:

<http://www.ftc.state.fl.us/documents/reports/TAMO/FY2016OversightReport.pdf>. (Last visited November 7, 2017.)

¹² Part V of Chapter 348, F.S., specifically s. 348.9953, F.S. The Osceola County Expressway Authority Law is repealed “on the same date that the Osceola County Expressway System is transferred to the Central Florida Expressway Authority,” per ch. 2014-171, L.O.F. According to the Transportation Commission’s 2016 Monitoring and Oversight Report, the Osceola County Expressway System will be transferred to the Central Florida Expressway Authority sometime after December 31, 2018. The Authority transferred the lead for its 2040 Master Plan development to the Central Florida Expressway Authority, which began feasibility studies on the unbuilt Master Plan projects in April of this year. *Supra* note 11 at p. 7. Section 348.9961, F.S., provides that if, before January 2, 2020, the Authority has not encumbered any funds to further its authorized purposes and powers, the Authority is dissolved.

¹³ Chapter 349, F.S., specifically s. 349.04.

¹⁴ Section 120.515, F.S.

¹⁵ See the Joint Administrative Procedures Committee’s publication, *A Primer on Florida’s Administrative Procedure Act*, available at: <http://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf>. (Last visited November 3, 2017.)

- (3) The right to develop a record which is capable of court review;
- (4) The right to locate precedent and have it applied; and
- (5) The right to know the factual bases and policy reasons for agency action.”¹⁶

Agencies subject to the APA are required to use the uniform rules of procedure adopted by the Administration Commission establishing procedures for each agency subject to the Act, unless the Administration Commission grants an exception. Those procedures specifically include uniform rules for the filing of notice of protests and formal written protests.¹⁷

“Agencies” Subject to the APA

The APA defines “agency” to mean the following officers or governmental entities:¹⁸

- The Governor; each state officer and state department, and each departmental unit described in s. 20.04, F.S.; the Board of Governors of the State University System; the Commission on Ethics; the Fish and Wildlife Conservation Commission; a regional water supply authority; a regional planning agency; a multicounty special district, but only if a majority of its governing board is comprised of nonelected persons; educational units; and each entity described in chapters 163, 373, 380, 582, and s. 186.504, F.S.;
- Each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county; and
- Each officer and governmental entity in the state having jurisdiction in one county or less than one county, to the extent they are expressly made subject to chapter 120, F.S., by general or special law or existing judicial decisions.

However, among other entities, an expressway authority pursuant to chapter 348, F.S., or any transportation authority or commission under chapters 343 or 349, F.S., is expressly excluded from the definition of “agency” and is therefore excluded from the requirements of the APA, including s. 120.57(3), F.S., containing procedures specifically applicable to protests to contract solicitations or awards; and from the uniform rules of procedure adopted by the Administration Commission¹⁹ pursuant to s. 120.54(5), F.S., including Chapter 28-110, F.A.C., relating specifically to bid protests.

Bid Protest Procedures

Aside from the general provisions of Chapter 120, F.S., current law provides additional procedures specifically applicable to protests to contract solicitations or awards. Section 120.57(3), F.S., requires agencies subject to that chapter to use the uniform rules, which must provide at least that:

- The agency shall provide notice of a decision or intended decision concerning a solicitation, contract award, or exceptional purchase by electronic posting. The notice must include the following statement: “Failure to file a protest within the time prescribed in s. 120.57(3),

¹⁶ 2 Fla. Jur 2d *Administrative Law*, s. 1 (2014), *citations omitted*. Section 120.52(2), F.S., defines “agency action” to mean the whole or part of a rule or order, or the equivalent, or the denial of a petition to adopt a rule or issue an order, including any denial of a request to initiate rulemaking under s. 120.52(7), F.S.

¹⁷ Section 120.54(5), F.S., and specifically s. 120.54(5)(b)3., F.S.

¹⁸ If they are acting pursuant to powers other than those derived from the constitution.

¹⁹ The Governor and Cabinet compose the Administration Commission, created under s. 14.202, F.S.

Florida Statutes, or failure to post the bond²⁰ or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes.”²¹

- Any person adversely affected by the decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. If the protest is to the terms, conditions, and specifications contained in a solicitation, the notice shall be filed in writing within 72 hours after the posting of the solicitation. A formal written protest shall be filed within 10 days after the date the notice of protest is filed, particularly stating the facts and law upon which the protest is based.²² Saturdays, Sundays, and holidays are excluded from the computation of the 72-hour time period.
- Upon receipt of a timely filed formal written protest, the agency is required to stop the solicitation or contract award process until the subject of the protest is resolved by final agency action, unless the agency head sets forth in writing particular facts and circumstances requiring the continuance of the solicitation or contract award process without delay, to avoid an immediate and serious danger to the public health, safety, or welfare.²³
- The agency is required to provide an opportunity to resolve the protest by mutual agreement between the parties within 7 days, excluding Saturdays, Sundays, and state holidays, after receipt of a formal written protest.
 - If the subject of a protest is not resolved within the specified 7 days, and if there is no disputed issue of material fact, an informal proceeding must be conducted in accordance with s. 120.57(2), F.S., and applicable agency rules before a person whose qualifications have been prescribed by rules of the agency.
 - If the protest is not resolved within the specified 7 days, and if there is a disputed issue of material fact, the agency is required to refer the protest to the DOAH for a formal hearing in accordance with s. 120.57(1), F.S.²⁴
- Upon receipt of a referred formal written protest, DOAH must expedite the hearing and assign an administrative law judge, who must commence a hearing within 30 days after receipt of the protest and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the judge, whichever is later. Each party must be allowed 10 days in which to submit written exceptions to the recommended

²⁰ Chapter 28-110.005, F.A.C., describes required bid protest bonds, when bonds are not required, which bonds must be filed with the formal written protest or within the 10-day period allowed for filing the formal written protest, and sets out the bond form. If a required bond is not posted, the rule requires the agency to dismiss the petition. The rule also addresses disposition of the bond at the conclusion of the proceeding or any appellate proceeding.

²¹ Section 120.57(3)(a), F.S. Chapter 28-110.003(1), F.A.C., supplements the statute by requiring the notice to be addressed to the office that issued the solicitation or made a decision intended to be protested, to identify the solicitation by number and title or any other language that enables identification, and to state that the person intends to protest the decision. If a bond is required, the rule prohibits filing the bond with the notice unless otherwise required by law.

²² Section 120.57(3)(b), F.S. Chapter 28-110.00(2) and (3), F.A.C., supplement the statute by prohibiting the filing of a notice of protest before the 72-hour period begins. It begins upon electronic posting of a decision or intended decision. The notice must be received before the 72-hour period expires and must be filed with the agency clerk unless otherwise designated by the solicitation. The 72-hour period is not extended by service of the notice of protest by mail. Chapter 28-110.0004, F.A.C., describes a “formal written protest,” sets out the form of a petition, requires inclusion of specified information, and specifies conditions under which the formal written protest will also constitute the notice of protest, after which all time limits relative to formal written protests apply.

²³ Section 120.57(3)(c), F.S.

²⁴ Section 120.57(3)(d), F.S.

order, and a final order must be entered by the agency within 30 days of the entry of a recommended order. These provisions may be waived upon stipulation by all parties.²⁵

Research suggests that some of the statutorily created entities impacted by this bill adhere to some extent to the provisions of the APA, but because these entities are not currently subject to the bid protest procedures of Chapter 120, F.S., those protesting any such entity's solicitation or contract award decisions must directly seek judicial remedies.

Purchasing Category Threshold Amounts

Chapter 287, F.S., regulates state agency procurement of personal property and services. Agencies may use a variety of procurement methods, depending on factors such as the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These include the following:

- "Single source contracts," which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- "Invitations to bid (ITB)," which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- "Requests for proposals (RFP)," which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- "Invitations to negotiate (ITN)," which are used when negotiations are determined to be necessary to obtain the best value and involve a request for high complexity, customized, mission-critical services, by an agency dealing with a limited number of vendors.²⁶

With respect to cost, section 287.017, F.S., sets out five purchasing categories, the thresholds of which may trigger a required contract procurement method. The categories are:

- CATEGORY ONE: \$20,000.
- CATEGORY TWO: \$35,000.
- CATEGORY THREE: \$65,000.
- CATEGORY FOUR: \$195,000.
- CATEGORY FIVE: \$325,000.

III. Effect of Proposed Changes:

Section 1 amends s. 120.57(3), F.S., requiring transportation-related entities created under chapters 343, 348, or 349, F.S., to use the uniform rules of procedure for resolution of protests arising from the contract solicitation or award process for any procurement exceeding the Category Five threshold amount (\$325,000), or if the term of the procurement, including the number of days specified in the initial contract and the number of days specified in any authorized contract extension or renewal, exceeds 365 days.

²⁵ Section 120.57(3)(e), F.S.

²⁶ See ss. 287.012(6) and 287.057, F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Bid protesters may incur administrative and legal expenses associated with protests of the specified procurements; *e.g.*, notice and bond requirements, potential settlement negotiations, participating in formal and informal hearings, and submitting written exceptions to DOAH recommended orders. The amount of such expenses is dependent on the number of bid protests and their complexity and is therefore unknown.

C. Government Sector Impact:

The identified entities may incur administrative and legal expenses associated with protests of the specified procurements; *e.g.*, notice requirements, potential settlement negotiations, conducting and participating in informal hearings, participating in formal hearings, submitting exceptions to recommended orders, issuing final orders, and defending potential appeals. The extent to which the identified entities incur expenses for their existing procurement protest processes is unknown. Because the costs associated with the entities' existing protest processes are unknown, whether these entities will experience an increase or a decrease in such costs is unknown. The amount of such expenses is also dependent on the number of bid protests and their complexity and is therefore unknown.

The DOAH may incur expenses for conducting expedited hearings and issuing recommended orders, which are expected to be insignificant.²⁷

²⁷ Telephone conversation with DOAH staff, November 8, 2017.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following section of the Florida Statutes: 120.57.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Brandes

24-00618-18

2018544__

A bill to be entitled

An act relating to procurement procedures; amending s. 120.57, F.S.; specifying the applicability of procedures for the resolution of protests arising from the contract solicitation or award process for certain procurements by specified transportation, expressway, and bridge authorities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 120.57, Florida Statutes, is amended to read:

120.57 Additional procedures for particular cases.—

(3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO CONTRACT SOLICITATION OR AWARD.—Agencies subject to this chapter or an entity created under chapter 343, chapter 348, or chapter 349 when required by this subsection shall use the uniform rules of procedure, which provide procedures for the resolution of protests arising from the contract solicitation or award process. Such rules shall at least provide that:

(a) The agency shall provide notice of a decision or intended decision concerning a solicitation, contract award, or exceptional purchase by electronic posting. This notice shall contain the following statement: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

24-00618-18

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(b) Any person who is adversely affected by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the posting of the solicitation. The formal written protest shall be filed within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time periods provided by this paragraph.

(c) Upon receipt of the formal written protest that has been timely filed, the agency shall stop the solicitation or contract award process until the subject of the protest is resolved by final agency action, unless the agency head sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(d) 1. The agency shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

24-00618-18

2018544

days, excluding Saturdays, Sundays, and state holidays, after receipt of a formal written protest.

2. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and state holidays, after receipt of the formal written protest, and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to subsection (2) and applicable agency rules before a person whose qualifications have been prescribed by rules of the agency.

3. If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and state holidays, after receipt of the formal written protest, and if there is a disputed issue of material fact, the agency shall refer the protest to the division by electronic means through the division's website for proceedings under subsection (1).

(e) Upon receipt of a formal written protest referred pursuant to this subsection, the director of the division shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written protest by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript by the administrative law judge, whichever is later. Each party shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days of the entry of a recommended order. The provisions of this paragraph may be waived upon stipulation by all parties.

(f) In a protest to an invitation to bid or request for proposals procurement, no submissions made after the bid or

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2018544

proposal opening which amend or supplement the bid or proposal shall be considered. In a protest to an invitation to negotiate procurement, no submissions made after the agency announces its intent to award a contract, reject all replies, or withdraw the solicitation which amend or supplement the reply shall be considered. Unless otherwise provided by statute, the burden of proof shall rest with the party protesting the proposed agency action. In a competitive-procurement protest, other than a rejection of all bids, proposals, or replies, the administrative law judge shall conduct a de novo proceeding to determine whether the agency's proposed action is contrary to the agency's governing statutes, the agency's rules or policies, or the solicitation specifications. The standard of proof for such proceedings shall be whether the proposed agency action was clearly erroneous, contrary to competition, arbitrary, or capricious. In any bid-protest proceeding contesting an intended agency action to reject all bids, proposals, or replies, the standard of review by an administrative law judge shall be whether the agency's intended action is illegal, arbitrary, dishonest, or fraudulent.

~~(g)~~ For purposes of this subsection, the definitions in s. 287.012 apply. This subsection applies to any procurement by an entity created under chapter 343, chapter 348, or chapter 349 which exceeds the CATEGORY FIVE threshold amount provided in s. 287.017 or if the term of the procurement, including the number of days specified in the initial contract and the number of days specified in any authorized contract extension or renewal, exceeds 365 days.

24-00618-18

2018544__

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Section 2. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Criminal
and Civil Justice, *Chair*
Ethics and Elections, *Vice Chair*
Appropriations
Community Affairs
Criminal Justice
Regulated Industries
Rules

SENATOR JEFF BRANDES

24th District

November 13, 2017

Chairman Gainer,

I am requesting that SB 544 relating to Procurement Procedures, which is on the agenda for the upcoming meeting of the Senate Transportation Committee, be temporarily postponed. I am unable to attend the committee meeting due to a prior commitment, and have requested an excused absence. I would like to be able to present this bill myself, and would therefore request that it be brought back up on the committee's next agenda.

If you have any questions regarding this request, please feel free to contact my office, or myself. Thank you for time and consideration of this matter.

Kind Regards,

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Jeff Brandes

REPLY TO:

- ☐ 9800 4th Street North, Suite 200, St. Petersburg, Florida 33702 (727) 563-2100
- ☐ 416 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-14-17

Meeting Date

544

Bill Number (if applicable)

Topic PROCUREMENT PROCEDURES

Amendment Barcode (if applicable)

Name JAMES TAYLORJob Title EXECUTIVE DIRECTORAddress 401 PARK AVE

Street

Phone 850-803-8324TALLAHASSEE

City

State

Zip

Email JAMES.TAYLOR@FLTECHCOUNCIL.COMSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing FLORIDA TECHNOLOGY COUNCILAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-14-2017

Meeting Date

544

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 322

INTRODUCER: Senator Book

SUBJECT: Fees Charged by Tax Collectors

DATE: November 8, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 322 authorizes tax collectors to retain a portion of fees when they administer subsequent driver license examinations or reinstate driver licenses. Specifically, the bill requires tax collectors to retain:

- \$10, less an eight percent general revenue (GR) service charge, when they administer a subsequent knowledge test as part of the driver license examination;
- \$20, less an eight percent GR service charge, when they administer a subsequent skills test as part of the driver license examination;
- \$15, less an eight percent GR service charge, of the \$45 fee when they process a reinstatement of a suspended driver license; and
- \$20, less an eight percent GR service charge, of the \$75 fee when they process a reinstatement of a disqualified or revoked driver license.

The Revenue Estimating Conference (REC) estimates that allowing local tax collectors to retain such fees or portions of fees will shift approximately \$5 million from the Highway Safety Operating Trust Fund (HSOTF) each year to the local tax collectors. The bill does not impact the GR Fund.

The bill takes effect July 1, 2018.

II. Present Situation:

In 2010, the Florida Legislature required all state driver license issuance services be transferred from many Department of Highway Safety and Motor Vehicles (DHSMV) offices to tax collectors who are constitutional officers under s. 1(d), Art. VIII of the State Constitution by June 30, 2015.¹ As part of that transfer, tax collectors retain portions of specified fees when

¹ Chapter 2010-163, Laws of Florida and s. 322.02(1), F.S.

processing certain driver license services. Additionally, tax collectors charge a \$6.25 service fee for completing such services.²

Tax collectors are not currently able to retain portions of fees for some services that the tax collectors are regularly performing. For example, an applicant who fails his or her initial driving knowledge or skills test is required to pay a \$10 or \$20 fee, respectively, to be issued any subsequent test. These fees are deposited into the HSOTF, regardless of whether the DHSMV or the tax collectors administer the exam.³

Similarly, service fees required to reinstate a suspended, revoked, or disqualified driver license, collected pursuant to s. 322.21(8), F.S., are deposited into the GR Fund and HSOTF, regardless of whether the reinstatement was conducted by the DHSMV or tax collectors. Of the \$45 service fee to reinstate a driver license suspension, \$15 is deposited in the GR Fund and \$30 in the HSOTF. Of the \$75 service fee to reinstate a driver license revocation or commercial driver license disqualification, \$35 is deposited in the GR Fund and \$40 in the HSOTF.

In the past year, tax collector offices administered 70 percent of subsequent driver license examinations, 79 percent of suspended and revoked driver license reinstatements, and 61 percent of disqualified commercial driver license reinstatements.⁴

Section 215.20, F.S., requires an eight percent service charge be paid to the GR Fund from all income of a revenue nature deposited in all state trust funds excluding those exempt pursuant to s. 215.22, F.S.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 322.12, F.S., to require, for subsequent driver license examinations, that the tax collector retain:

- \$10, less an eight percent GR service charge, when they administer a subsequent knowledge test as part of the driver license examination;
- \$20, less an eight percent GR service charge, when they administer a subsequent skills test as part of the driver license examination;

Section 2 amends s. 322.21, F.S., to require the tax collectors to retain a portion of service fees when processing driver license reinstatements. If the reinstatement is processed by the tax collector:

- Of the \$45 fee for suspension reinstatement, \$15 shall be retained by the tax collector, less an eight percent GR service charge, \$15 shall be deposited into the HSOTF, and \$15 shall be deposited into the GR Fund; and
- Of the \$75 fee for revocation or disqualification reinstatement, \$20 shall be retained by the tax collector, less an eight percent GR service charge, \$20 shall be deposited into the HSOTF, and \$35 shall be deposited into the GR Fund.

² Section 322.135(1)(c), F.S.

³ Section 322.12(1), F.S.

⁴ REC, *Highway Safety Fees – HB 185 and SB 322* (Nov. 3, 2017), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/pdf/Impact1103.pdf> at p. 83 (last visited Nov. 6, 2017).

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The REC estimates that allowing tax collectors to retain fees or portions of fees for administering subsequent driver license examinations and reinstating driver licenses will shift approximately \$5 million of revenue each year from the HSOTF to the local tax collectors.⁵

B. Private Sector Impact:

The bill does not appear to impact the private sector.

C. Government Sector Impact:

The bill will have a negative impact on the HSOTF and a positive fiscal impact on local tax collectors.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 322.12 and 322.21.

⁵ *Id.* at p. 84.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Book

32-00511-18

2018322__

A bill to be entitled

An act relating to fees charged by tax collectors; amending s. 322.12, F.S.; providing for allocation of fees from certain driver license examinations administered by tax collectors; amending s. 322.21, F.S.; providing for allocation of fees from certain driver license reinstatement services performed by tax collectors; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 322.12, Florida Statutes, is amended to read:

322.12 Examination of applicants.—

(1) It is the intent of the Legislature that every applicant for an original driver license in this state be required to pass an examination pursuant to this section. However, the department may waive the knowledge, endorsement, and skills tests for an applicant who is otherwise qualified and who surrenders a valid driver license from another state or a province of Canada, or a valid driver license issued by the United States Armed Forces, if the driver applies for a Florida license of an equal or lesser classification. An ~~Any~~ applicant who fails to pass the initial knowledge test incurs a \$10 fee for each subsequent test, to be deposited into the Highway Safety Operating Trust Fund, except that if a subsequent test is administered by the tax collector, the tax collector shall retain such \$10 fee, less the general revenue service charge set forth in s. 215.20(1). An ~~Any~~ applicant who fails to pass the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

32-00511-18

2018322__

initial skills test incurs a \$20 fee for each subsequent test, to be deposited into the Highway Safety Operating Trust Fund, except that if a subsequent test is administered by the tax collector, the tax collector shall retain such \$20 fee, less the general revenue service charge set forth in s. 215.20(1). A person who seeks to retain a hazardous-materials endorsement, pursuant to s. 322.57(1)(e), must pass the hazardous-materials test, upon surrendering his or her commercial driver license, if the person has not taken and passed the hazardous-materials test within 2 years before applying for a commercial driver license in this state.

Section 2. Subsection (8) of section 322.21, Florida Statutes, is amended to read:

322.21 License fees; procedure for handling and collecting fees.—

(8) A ~~Any~~ person who applies for reinstatement following the suspension or revocation of the person's driver license must pay a service fee of \$45 following a suspension, and \$75 following a revocation, which is in addition to the fee for a license. A ~~Any~~ person who applies for reinstatement of a commercial driver license following the disqualification of the person's privilege to operate a commercial motor vehicle shall pay a service fee of \$75, which is in addition to the fee for a license. The department shall collect all of these fees at the time of reinstatement. The department shall issue proper receipts for such fees and shall promptly transmit all funds received by it as follows:

(a) Of the \$45 fee received from a licensee for reinstatement following a suspension;

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2018322__

59 1. If the reinstatement is processed by the department, the
 60 department shall deposit \$15 in the General Revenue Fund and \$30
 61 in the Highway Safety Operating Trust Fund.

62 2. If the reinstatement is processed by the tax collector,
 63 \$15, less the general revenue service charge set forth in s.
 64 215.20(1), shall be retained by the tax collector, \$15 shall be
 65 deposited into the Highway Safety Operating Trust Fund, and \$15
 66 shall be deposited into the General Revenue Fund.

67 (b) Of the \$75 fee received from a licensee for
 68 reinstatement following a revocation or disqualification:

69 1. If the reinstatement is processed by the department, the
 70 department shall deposit \$35 in the General Revenue Fund and \$40
 71 in the Highway Safety Operating Trust Fund.

72 2. If the reinstatement is processed by the tax collector,
 73 \$20, less the general revenue service charge set forth in s.
 74 215.20(1), shall be retained by the tax collector, \$20 shall be
 75 deposited into the Highway Safety Operating Trust Fund, and \$35
 76 shall be deposited into the General Revenue Fund.

77
 78 If the revocation or suspension of the driver license was for a
 79 violation of s. 316.193, or for refusal to submit to a lawful
 80 breath, blood, or urine test, an additional fee of \$130 must be
 81 charged. However, only one \$130 fee may be collected from one
 82 person convicted of violations arising out of the same incident.
 83 The department shall collect the \$130 fee and deposit the fee
 84 into the Highway Safety Operating Trust Fund at the time of
 85 reinstatement of the person's driver license, but the fee may
 86 not be collected if the suspension or revocation is overturned.
 87 If the revocation or suspension of the driver license was for a

32-00511-18

2018322__

88 conviction for a violation of s. 817.234(8) or (9) or s.
 89 817.505, an additional fee of \$180 is imposed for each offense.
 90 The department shall collect and deposit the additional fee into
 91 the Highway Safety Operating Trust Fund at the time of
 92 reinstatement of the person's driver license.

93 Section 3. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/17

Meeting Date

SB 322

Bill Number (if applicable)

Topic SB 322 / Redirect

Amendment Barcode (if applicable)

Name Chuck Hewitt

Job Title Tax Collector Lafayette County

Address 216 S. Monroe St
Street

Phone 850-222-7206

Tallahassee

City

FL

State

32301

Zip

Email lafayette@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Tax Collectors Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

November 14, 2017
Meeting Date

SB 322
Bill Number (if applicable)

Topic SB 322 - Redirect

Amendment Barcode (if applicable)

Name Ben Anderson

Job Title Tax Collector - Okaloosa County // President Elect - Fla Tax Collector Asso.

Address 854 Holbrook Circle Phone 850.689.5300
Street

Fort Walton Beach, FL 32547 Email BAnderson@OkaloosaTax.com
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Tax Collector Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/17

Meeting Date

SB 322

Bill Number (if applicable)

Topic Tax Collector DL Services

Amendment Barcode (if applicable)

Name Tim Qualls

Job Title Executive Director FTCA

Address 216 S. Monroe St

Phone 850-222-7206

Street

Tallahassee, FL

32301

City

State

Zip

Email TQUALLS@YULAW.NET

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Tax Collectors, Inc (State-wide Association of Tax Collectors)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-14-2017

Meeting Date

322

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 382

INTRODUCER: Senator Book

SUBJECT: Transportation Facility Designations/Deputy Ryan Seguin Memorial Highway

DATE: November 14, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 382 designates the portion of I-595 between S.W. 136th Avenue and S.R. 823/Flamingo Road in Broward County as “Deputy Ryan Seguin Memorial Highway” and directs the Florida Department of Transportation (FDOT) to erect suitable markers.

The estimated cost to the FDOT to install the designation markers required under this bill is \$1,000. See the heading, “Fiscal Impact Statement” below for details.

The bill takes effect July 1, 2018.

II. Present Situation:

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility. Such designations are not to be construed as requiring any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.¹

When the Legislature establishes road or bridge designations, the Florida Department of Transportation (FDOT) is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility.²

The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the

¹ Section 334.071(1), F.S.

² Section 334.071(2), F.S.

designated road or bridge segment is located in more than one city or county, each affected local government must pass resolutions supporting the designations before installation of the markers.³

Deputy Ryan Seguin

Deputy Ryan Seguin, a three-year Broward Sheriff's Office veteran, received a Life Saving Award in 2005 from the Broward County Sheriff after saving the life of a child in danger of drowning, and earned Employee of the Month honors in the Sheriff's Office Weston district four times. Deputy Seguin came from a law enforcement family; his father was a retired police officer for the Ft. Lauderdale Police Department.

Deputy Seguin, 23 years old, was killed during a traffic stop near Davie, Florida on the evening of February 15, 2006. Deputy Seguin was outside his vehicle in the westbound lanes of I-595 when a passing car struck and killed him on impact. Deputy Seguin was laid to rest in Alpena, Michigan.

III. Effect of Proposed Changes:

The bill designates the portion of I-595 between S.W. 136th Avenue and S.R. 823/Flamingo Road in Broward County as "Deputy Ryan Seguin Memorial Highway" and directs the Florida Department of Transportation (FDOT) to erect suitable markers for the described designation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

³ Section 334.071(3), F.S.

C. Government Sector Impact:

The estimated cost to erect the designation markers required under this bill is \$1,000, based on the assumption that two markers are required at a cost to the FDOT of no less than \$500 each. The estimate includes sign fabrication, installation, and maintenance over time but does not include any additional expenses related to maintenance of traffic, dedication event costs, or replacement necessitated by damage, vandalism, or storm events.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates an undesignated section of Florida Law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Book

32-00625-18

2018382__

A bill to be entitled

An act relating to transportation facility designations; providing honorary designation of a certain transportation facility in a specified county; directing the Department of Transportation to erect suitable markers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Deputy Ryan Seguin Memorial Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of I-595 between S.W. 136th Avenue and S.R. 823/Flamingo Road in Broward County is designated as "Deputy Ryan Seguin Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating Deputy Ryan Seguin Memorial Highway as described in subsection (1).

Section 2. This act shall take effect July 1, 2018.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: CS/SB 346

INTRODUCER: Transportation Committee and Senator Perry

SUBJECT: Motorcycle and Moped Riders

DATE: November 14, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 346 requires riders and operators under the age of 21 years old to wear protective headgear and eye-protection when operating or riding upon motorcycles powered by a motor of 50 cubic centimeters (CCs) or less or rated at two horsepower or less, which is not capable of propelling the motorcycle more than 30 miles per hour (mph). In addition, a person under 21 years old must wear protective headgear when operating or riding upon a moped. Currently these protective equipment requirements only apply to riders and operators who are under 16 years old. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation, which is a fine of up to \$108.

The bill does not appear to have a significant fiscal impact on state or local government.

The bill takes effect July 1, 2018.

II. Present Situation:

Section 316.211, F.S., requires a person operating or riding upon a motorcycle to wear protective headgear securely fastened upon his or her head as well as an eye-protective device. The headgear must comply with Federal Motorcycle Vehicle Safety Standards¹, and the eye-

¹ See 49 CFR s. 571.218 – Standard No. 218; Motorcycle Helmets (2011), available at <https://www.gpo.gov/fdsys/pkg/CFR-2011-title49-vol6/pdf/CFR-2011-title49-vol6-sec571-218.pdf> (last visited Oct. 16, 2017).

protective device must be approved by the Department of Highway Safety and Motor Vehicles (DHSMV)². However, this section does not apply to:

- Persons riding within an enclosed cab;
- Any person *16 years of age or older* operating or riding upon a motorcycle powered by a motor with a displacement of 50CCs or less or is rated not in excess of two brake horsepower and not capable of propelling the motorcycle at a speed greater than 30 mph;
- A person at least 21 years of age, if such person is covered by an insurance policy providing at least \$10,000 in medical benefits for injuries incurred as a result of a motorcycle crash.

Additionally, s. 316.211, F.S., prohibits a person under 16 years of age from operating or riding upon a moped without protective headgear. A “moped” is defined as a vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of two brake horsepower and not capable of propelling the moped at a speed greater than 30 mph and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50CCs.³

This section also requires motorcycles registered to persons under 21 years of age to display an “Under 21” license plate. The current design of this license plate features a motorcycle-sized plate with a white background and with letters and numbers in a red font.⁴

A violation of any of the provisions of s. 316.211, F.S., is a noncriminal traffic infraction, punishable as a nonmoving violation, which is a fine of up to \$108.⁵ In 2016, there were 3,098 citations issued in Florida for a violation of this section.⁶

According to the DHSMV, motorcycles manufactured with a motor of 50CCs or less can be altered in order to make the motorcycle more powerful than is displayed on the motorcycle’s body or included on the manufacturer’s certificate of origin.⁷ This can make enforcement of the helmet law difficult for law enforcement, since the helmet requirement differs based on the power of the motorcycle and age of the individual.

² Approved eye-protective devices are “goggles, faces shields designed for use with, and as part of an approved helmet or eyeglasses including sunglasses,” which must be “in good repair, free of sharp edges or projections...free from cracks, waves, bubbles, or any other defect which may impair its normal visibility.” See 2013 Florida Motorcycle Handbook at 9, (Sept. 2012), available at <https://www.flhsmv.gov/handbooks/EnglishMotorcycleHandbook.pdf> (last visited Oct. 16, 2017).

³ Section 316.003(38), F.S.

⁴ An image of this license plate and of all other current Florida license plates can be viewed in DHSMV’s “Tag Brochure”, available at <http://www.flhsmv.gov/html/tagbrochure.pdf> (last visited Oct. 20, 2017).

⁵ Section 318.18, F.S., provides a \$30 fine for a noncriminal traffic infraction, plus court costs.

⁶ See DHSMV website, *Annual Uniform Traffic Citation Report* (2016), available at <https://services.flhsmv.gov/specialtyplates/uniformtrafficcitationreport> (last visited Oct. 20, 2017).

⁷ Email from DHSMV (Aug. 31, 2017) (on file with the Senate Committee on Transportation).

III. Effect of Proposed Changes:

The bill requires riders and operators under the age of 21 years old to wear protective headgear which complies with Federal Motorcycle Vehicle Safety Standards, and eye-protection approved by the DHSMV when operating or riding upon a motorcycle powered by a motor:

- With a displacement of 50CCs or less or is rated not in excess of two brake horsepower, and;
- Which is not capable of propelling the motorcycle at a speed greater than 30 mph on level ground.

The bill also requires a person under 21 years old to wear protective headgear when operating or riding upon a moped. Additionally, a moped registered to a person under 21 years old must display a unique license plate. According to the DHSMV, this “under 21” license plate requirement is already current practice.⁸

A violation of this law is a noncriminal traffic infraction, punishable as a nonmoving violation, which is a fine of up to \$108.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals may incur costs associated with acquiring required protective headgear. A person who violates this law may be subject to a fine of up to \$108.

⁸ Email from DHSMV (Oct. 13, 2017) (on file with the Senate Committee on Transportation).

C. Government Sector Impact:

The bill does not appear to have a significant fiscal impact on state or local government. DHSMV may incur minimal programming costs to implement the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.211 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on October 24, 2017:

The CS adds that individuals who are under 21 years old must wear protective headgear when operating or riding upon a moped.

In addition, the bill requires a moped registered to a person under 21 years old to display a unique license plate, which is already current practice.

B. Amendments:

None.



779198

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/15/2017	.	
	.	
	.	
	.	

The Committee on Transportation (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 36 - 46
and insert:

(4) A person under 21 ~~16~~ years of age may not operate or ride upon a moped unless the person is properly wearing protective headgear securely fastened upon his or her head which complies with Federal Motorcycle Vehicle Safety Standard 218 promulgated by the United States Department of Transportation.

(5) The department shall make available a list of



779198

protective headgear approved in this section, and the list shall
be provided on request.

(6) Each motorcycle or moped registered to a person under
21 years of age must display a license plate that is unique in
design and color.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 5

and insert:

motorcycle or moped are exempt from protective
headgear

By Senator Perry

8-00434-18

2018346__

1 A bill to be entitled
2 An act relating to motorcycle and moped riders;
3 amending s. 316.211, F.S.; increasing the age at which
4 persons who are operating or riding upon a certain
5 motorcycle are exempt from protective headgear
6 requirements; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Section 316.211, Florida Statutes, is amended to
11 read:
12 316.211 Equipment for motorcycle and moped riders.-
13 (1) A person may not operate or ride upon a motorcycle
14 unless the person is properly wearing protective headgear
15 securely fastened upon his or her head which complies with
16 Federal Motorcycle Vehicle Safety Standard 218 promulgated by
17 the United States Department of Transportation. The Department
18 of Highway Safety and Motor Vehicles shall adopt this standard
19 by agency rule.
20 (2) A person may not operate a motorcycle unless the person
21 is wearing an eye-protective device over his or her eyes of a
22 type approved by the department.
23 (3) (a) This section does not apply to persons riding within
24 an enclosed cab or to any person over 21 years of age ~~16 years~~
25 ~~of age or older~~ who is operating or riding upon a motorcycle
26 powered by a motor with a displacement of 50 cubic centimeters
27 or less or is rated not in excess of 2 brake horsepower and
28 which is not capable of propelling such motorcycle at a speed
29 greater than 30 miles per hour on level ground.

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00434-18

2018346__

30 (b) Notwithstanding subsection (1), a person over 21 years
31 of age may operate or ride upon a motorcycle without wearing
32 protective headgear securely fastened upon his or her head if
33 such person is covered by an insurance policy providing for at
34 least \$10,000 in medical benefits for injuries incurred as a
35 result of a crash while operating or riding on a motorcycle.
36 (4) A person under 16 years of age may not operate or ride
37 upon a moped unless the person is properly wearing protective
38 headgear securely fastened upon his or her head which complies
39 with Federal Motorcycle Vehicle Safety Standard 218 promulgated
40 by the United States Department of Transportation.
41 (5) The department shall make available a list of
42 protective headgear approved in this section, and the list shall
43 be provided on request.
44 (6) Each motorcycle registered to a person under 21 years
45 of age must display a license plate that is unique in design and
46 color.
47 (7) A violation of this section is a noncriminal traffic
48 infraction, punishable as a nonmoving violation as provided in
49 chapter 318.
50 Section 2. This act shall take effect July 1, 2018.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/17
Meeting Date

SB 346
Bill Number (if applicable)

Topic MOPEDS Amendment Barcode (if applicable)

Name James D. "Doc" Reichenbach III

Job Title State President

Address PO BOX 712 Phone 352-362-2150

Street Silver Springs City 34489 State FL Zip 34489 Email abatef1@afl.net

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Abate of Florida, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/2017
Meeting Date

346
Bill Number (if applicable)

Topic Motorcycle & Moped Riders

Amendment Barcode (if applicable)

Name Carl Mikyska

Job Title Executive Director

Address 605 Suwannee St
Street

Phone _____

Tallahassee, FL 32399
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information
↳ Please Ignore

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida MPO Advisory Council

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/17

Meeting Date

346

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID COLLEN

Job Title _____

Address 1674 UNIVERSITY BLVD #296
Street

Phone 941-323-2404

SARASOTA FL 34243
City State Zip

Email COLLEN@SARASOTAFL.COM

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing ADVOCACY INSTITUTE FOR CHILDREN

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-14-2017

Meeting Date

346

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone _____

St Petersburg FL 33705
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 504

INTRODUCER: Senator Perry

SUBJECT: Autocycles

DATE: November 8, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 504 defines the term “autocycle,” requires occupants of autocycles wear safety belts, and exempts drivers of autocycles from motorcycle endorsement or motorcycle license requirements, which exempts them from completing motorcycle knowledge and skills testing in order to operate an autocycle.

Due to motorcycle licenses or endorsements no longer being a requirement to operate an autocycle, the bill may have an insignificant negative impact to the Department of Highway Safety and Motor Vehicles (DHSMV).

The bill takes effect July 1, 2018.

II. Present Situation:

An autocycle is commonly defined as a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.¹ The term “autocycle” is not defined in federal law; however, as of May 2017, at least 34 states statutorily define the term “autocycle.”²

Both federal and Florida law define “motorcycle” as a motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.³ In 2015, the U.S. Department of Transportation (DOT) and the National Highway Traffic Safety Administration (NHTSA) proposed a rulemaking framework to change the federal

¹ American Association of Motor Vehicle Administrators (AAMVA), *Best Practices for the Regulation of Three-Wheel Vehicles* (October 2013), available at <http://www.aamva.org/3wheelvehiclebp/> at p. 4 (last visited Nov. 3, 2017).

² National Conference of State Legislatures (NCSL), *The Confusing World of Autocycles* (May 30, 2017), available at <http://www.ncsl.org/blog/2017/05/30/the-confusing-world-of-autocycles.aspx> (last visited Nov. 3, 2017).

³ 49 C.F.R. 571.3; and ss. 316.003(41) and 320.01(26), F.S.

regulatory definition of “motorcycle” to exclude three-wheeled vehicles configured like passenger cars, but that rule has not been finalized and no additional action has been taken on it since November 2015.⁴ Currently, the DHSMV registers autocycles as motorcycles.⁵ This means operators of autocycles, generally, are not required to maintain motor vehicle insurance⁶ or wear safety belts⁷, but are required to:

- Maintain a motorcycle endorsement or motorcycle license;⁸
- Wear a helmet, unless over 21 years of age with at least \$10,000 of medical insurance or riding in an enclosed cab;⁹ and
- Wear eye protection¹⁰;

In Fiscal Year 2016-2017, the DHSMV processed 589 original autocycle registrations and 988 autocycle registration renewals.¹¹

Since autocycles share more characteristics with passenger motor vehicles than motorcycles, some of the motorcycle requirements, or lack of requirements, may or may not be necessary for autocycles. For example, studies suggest a motorcycle endorsement or motorcycle license should not be required for operating an autocycle.¹² Motorcycle rider courses primarily focus on operating a motorcycle in which the operator sits astride the saddle and uses handlebars, while using his or her body weight, balance, and position on the motorcycle to corner or stop; however, operating an autocycle requires mechanics similar to a passenger motor vehicle. At least 22 states do not require a motorcycle endorsement or motorcycle license to operate an autocycle.¹³

Additionally, states vary in the definition and safety requirements of an autocycle. Of the states that have a statutory definition for autocycle:¹⁴

- 19 states require autocycles have seat belts;
- 15 states require autocycles be enclosed;
- 11 states require autocycles meet federal motorcycle safety requirements;
- 10 states require autocycles have a roll cage or roll bar;
- 8 states require autocycles have antilock brakes; and
- 4 states require autocycles have airbags.

⁴ *Id.* and DOT/NHTSA RIN: 2127-AL15, *Amend Definition of 3-Wheeled Vehicles* (Fall 2015), available at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201510&RIN=2127-AL15> (last visited Nov. 3, 2017).

⁵ DHSMV Technical Advisory RS/TL16-015, *Registering the Slingshot* (June 20, 2016), available at https://www.flhsmv.gov/dmv/bulletins/2016/ta_rst16-015.pdf (last visited Nov. 3, 2017).

⁶ See ch. 324, F.S., on Motor Vehicle Financial Responsibility.

⁷ See s. 316.614(3)(a)5., F.S.

⁸ Section 322.03(4), F.S.; s 322.21(1)(g), F.S., provides that a license endorsement is \$7.

⁹ Section 316.211, F.S.

¹⁰ Section 316.211(2), F.S.

¹¹ Revenue Estimating Conference, *Autocycles – HB 215* (Oct. 27, 2017) available at <http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/pdf/Impact1027.pdf> (last visited Nov. 3, 2017).

¹² AAMVA, *supra* note 1 at p. 5 and 9.

¹³ NCSL, *Traffic Safety Trends – State Legislative Action 2015* (Feb. 2016), available at http://www.ncsl.org/Portals/1/Documents/transportation/2015_Traffic_Safety_Trends.pdf at p. 23 (last visited Nov. 3, 2017).

¹⁴ NCSL, *Transportation Review - Autocycles* (April, 17, 2017), available at <http://www.ncsl.org/research/transportation/transportation-review-autocycles.aspx> (last visited Nov. 3, 2017).

There is little research or crash data available concerning the safety of autocycles. Since autocycles fall under the definition of a motorcycle they are required to meet the federal safety standards required for motorcycles; thus, autocycles are not required to meet the crash safety standards or occupant safety criteria that a regular passenger motor vehicle is required to meet. NHTSA has concerns that the overall appearance of autocycles, being closer to the appearance of a car than a motorcycle, may cause people to think autocycles are as safe as passenger motor vehicles.¹⁵

III. Effect of Proposed Changes:

Section 1 amends s. 316.003, F.S., defining an autocycle as a three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured by a NHTSA-registered manufacturer in accordance with the applicable federal motorcycle safety standards.

Sections 1 and 3 include an autocycle in the definition of a motorcycle. The definition of motorcycle is amended in both sections to provide consistency.

Section 2 amends s. 316.614, F.S., to require that the operator, front seat passenger, and any passenger under the age of 18 years old in an autocycle wear a safety belt.

Sections 4 and 5 amend ss. 322.03 and 322.12, F.S., respectively, to exempt operators of an autocycle from motorcycle endorsement or motorcycle license requirements, and from the motorcycle skills and motorcycle knowledge testing requirement to operate an autocycle.

Sections 6-9 make conforming changes.

Section 10 provides that the bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁵ AAMVA, *supra* note 1 at p. 2.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact on operators of autocycles who will not be required to obtain a motorcycle endorsement or motorcycle license in order to operate an autocycle, or to complete a motorcycle safety course and a motorcycle knowledge and skills test currently required to obtain such a license or endorsement.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) reviewed similar provisions in HB 215, and determined the bill will have an insignificant negative impact to the DHSMV due to the potential loss of motorcycle endorsement revenue.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.614, 320.01, 322.03, 322.12, 212.05, 316.303, 320.08, and 655.960.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁶ REC, *supra* note 11.

By Senator Perry

8-00391-18

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A bill to be entitled

An act relating to autocycles; amending s. 316.003, F.S.; defining the term "autocycle"; revising the definition of the term "motorcycle"; conforming a cross-reference; amending s. 316.614, F.S.; requiring safety belt or, if applicable, child restraint usage by an operator or passenger of an autocycle; amending s. 320.01, F.S.; including an autocycle in the definition of the term "motorcycle"; amending s. 322.03, F.S.; authorizing a person to operate an autocycle without a motorcycle endorsement; amending s. 322.12, F.S.; providing applicability; amending ss. 212.05, 316.303, 320.08, and 655.960, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (2) through (99) of section 316.003, Florida Statutes, are renumbered as subsections (3) through (100), respectively, a new subsection (2) is added to that section, and present subsections (41) and (57) are amended, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(2) AUTOCYCLE.—A three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant,

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antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motorcycle safety standards in 49 C.F.R. part 571 by a manufacturer registered with the National Highway Traffic Safety Administration.

(42)(41) MOTORCYCLE.—Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term includes an autocycle, but does not include excluding a tractor, or a moped, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle.

(58)(57) PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (80)(b) (79)(b), any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Section 2. Subsections (4) and (5) of section 316.614, Florida Statutes, are amended to read:

316.614 Safety belt usage.—

(4) It is unlawful for any person:

(a) To operate a motor vehicle or an autocycle in this state unless each passenger and the operator of the vehicle or autocycle under the age of 18 years are restrained by a safety belt or by a child restraint device pursuant to s. 316.613, if applicable; or

(b) To operate a motor vehicle or an autocycle in this state unless the person is restrained by a safety belt.

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(5) It is unlawful for any person 18 years of age or older to be a passenger in the front seat of a motor vehicle or an autocycle unless such person is restrained by a safety belt when the vehicle or autocycle is in motion.

Section 3. Subsection (26) of section 320.01, Florida Statutes, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(26) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term includes an autocycle, as defined in s. 316.003, but excludes a tractor, a moped, or any ~~excluding a~~ vehicle in which the operator is enclosed by a cabin unless it meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle. ~~The term "motoreycle" does not include a tractor or a moped.~~

Section 4. Subsection (4) of section 322.03, Florida Statutes, is amended to read:

322.03 Drivers must be licensed; penalties.—

(4) A person may not operate a motorcycle unless he or she holds a driver license that authorizes such operation, subject to the appropriate restrictions and endorsements. A person may operate an autocycle, as defined in s. 316.003, without a motorcycle endorsement.

Section 5. Paragraph (c) is added to subsection (5) of section 322.12, Florida Statutes, to read:

322.12 Examination of applicants.—

(5)

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(c) This subsection does not apply to the operation of an autocycle, as defined in s. 316.003.

Section 6. Paragraph (c) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(c) At the rate of 6 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein; however, the following special provisions apply to the lease or rental of motor vehicles:

1. When a motor vehicle is leased or rented for a period of less than 12 months:

a. If the motor vehicle is rented in Florida, the entire amount of such rental is taxable, even if the vehicle is dropped off in another state.

b. If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.

2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12

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months, sales tax is due on the lease or rental payments if the vehicle is registered in this state; provided, however, that no tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(13)(a) ~~316.003(12)(a)~~ to one lessee or rentee for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance with the provisions of s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

Section 7. Subsections (1) and (3) of section 316.303, Florida Statutes, are amended to read:

316.303 Television receivers.—

(1) No motor vehicle may be operated on the highways of this state if the vehicle is actively displaying moving television broadcast or pre-recorded video entertainment content that is visible from the driver's seat while the vehicle is in motion, unless the vehicle is equipped with autonomous technology, as defined in s. 316.003(3) ~~316.003(2)~~, and is being operated in autonomous mode, as provided in s. 316.85(2).

(3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system; an

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electronic display used by an operator of a vehicle equipped with autonomous technology, as defined in s. 316.003(3) ~~316.003~~; or an electronic display used by an operator of a vehicle equipped and operating with driver-assistive truck platooning technology, as defined in s. 316.003.

Section 8. Section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(4) ~~316.003(3)~~, tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES AND MOPEDS.—

(a) Any motorcycle: \$10 flat.

(b) Any moped: \$5 flat.

(c) Upon registration of a motorcycle, motor-driven cycle, or moped, in addition to the license taxes specified in this subsection, a nonrefundable motorcycle safety education fee in the amount of \$2.50 shall be paid. The proceeds of such additional fee shall be deposited in the Highway Safety Operating Trust Fund to fund a motorcycle driver improvement program implemented pursuant to s. 322.025, the Florida Motorcycle Safety Education Program established in s. 322.0255, or the general operations of the department.

(d) An ancient or antique motorcycle: \$7.50 flat, of which \$2.50 shall be deposited into the General Revenue Fund.

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175 (2) AUTOMOBILES OR TRI-VEHICLES FOR PRIVATE USE.—
 176 (a) An ancient or antique automobile, as defined in s.
 177 320.086, or a street rod, as defined in s. 320.0863: \$7.50 flat.
 178 (b) Net weight of less than 2,500 pounds: \$14.50 flat.
 179 (c) Net weight of 2,500 pounds or more, but less than 3,500
 180 pounds: \$22.50 flat.
 181 (d) Net weight of 3,500 pounds or more: \$32.50 flat.
 182 (3) TRUCKS.—
 183 (a) Net weight of less than 2,000 pounds: \$14.50 flat.
 184 (b) Net weight of 2,000 pounds or more, but not more than
 185 3,000 pounds: \$22.50 flat.
 186 (c) Net weight more than 3,000 pounds, but not more than
 187 5,000 pounds: \$32.50 flat.
 188 (d) A truck defined as a "goat," or other vehicle if used
 189 in the field by a farmer or in the woods for the purpose of
 190 harvesting a crop, including naval stores, during such
 191 harvesting operations, and which is not principally operated
 192 upon the roads of the state: \$7.50 flat. The term "goat" means a
 193 motor vehicle designed, constructed, and used principally for
 194 the transportation of citrus fruit within citrus groves or for
 195 the transportation of crops on farms, and which can also be used
 196 for hauling associated equipment or supplies, including required
 197 sanitary equipment, and the towing of farm trailers.
 198 (e) An ancient or antique truck, as defined in s. 320.086:
 199 \$7.50 flat.
 200 (4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS
 201 VEHICLE WEIGHT.—
 202 (a) Gross vehicle weight of 5,001 pounds or more, but less
 203 than 6,000 pounds: \$60.75 flat, of which \$15.75 shall be

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204 deposited into the General Revenue Fund.
 205 (b) Gross vehicle weight of 6,000 pounds or more, but less
 206 than 8,000 pounds: \$87.75 flat, of which \$22.75 shall be
 207 deposited into the General Revenue Fund.
 208 (c) Gross vehicle weight of 8,000 pounds or more, but less
 209 than 10,000 pounds: \$103 flat, of which \$27 shall be deposited
 210 into the General Revenue Fund.
 211 (d) Gross vehicle weight of 10,000 pounds or more, but less
 212 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited
 213 into the General Revenue Fund.
 214 (e) Gross vehicle weight of 15,000 pounds or more, but less
 215 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited
 216 into the General Revenue Fund.
 217 (f) Gross vehicle weight of 20,000 pounds or more, but less
 218 than 26,001 pounds: \$251 flat, of which \$65 shall be deposited
 219 into the General Revenue Fund.
 220 (g) Gross vehicle weight of 26,001 pounds or more, but less
 221 than 35,000: \$324 flat, of which \$84 shall be deposited into the
 222 General Revenue Fund.
 223 (h) Gross vehicle weight of 35,000 pounds or more, but less
 224 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
 225 into the General Revenue Fund.
 226 (i) Gross vehicle weight of 44,000 pounds or more, but less
 227 than 55,000 pounds: \$773 flat, of which \$201 shall be deposited
 228 into the General Revenue Fund.
 229 (j) Gross vehicle weight of 55,000 pounds or more, but less
 230 than 62,000 pounds: \$916 flat, of which \$238 shall be deposited
 231 into the General Revenue Fund.
 232 (k) Gross vehicle weight of 62,000 pounds or more, but less

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233 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
234 deposited into the General Revenue Fund.

235 (1) Gross vehicle weight of 72,000 pounds or more: \$1,322
236 flat, of which \$343 shall be deposited into the General Revenue
237 Fund.

238 (m) Notwithstanding the declared gross vehicle weight, a
239 truck tractor used within a 150-mile radius of its home address
240 is eligible for a license plate for a fee of \$324 flat if:

241 1. The truck tractor is used exclusively for hauling
242 forestry products; or

243 2. The truck tractor is used primarily for the hauling of
244 forestry products, and is also used for the hauling of
245 associated forestry harvesting equipment used by the owner of
246 the truck tractor.

247
248 Of the fee imposed by this paragraph, \$84 shall be deposited
249 into the General Revenue Fund.

250 (n) A truck tractor or heavy truck, not operated as a for-
251 hire vehicle, which is engaged exclusively in transporting raw,
252 unprocessed, and nonmanufactured agricultural or horticultural
253 products within a 150-mile radius of its home address, is
254 eligible for a restricted license plate for a fee of:

255 1. If such vehicle's declared gross vehicle weight is less
256 than 44,000 pounds, \$87.75 flat, of which \$22.75 shall be
257 deposited into the General Revenue Fund.

258 2. If such vehicle's declared gross vehicle weight is
259 44,000 pounds or more and such vehicle only transports from the
260 point of production to the point of primary manufacture; to the
261 point of assembling the same; or to a shipping point of a rail,

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262 water, or motor transportation company, \$324 flat, of which \$84
263 shall be deposited into the General Revenue Fund.

264
265 Such not-for-hire truck tractors and heavy trucks used
266 exclusively in transporting raw, unprocessed, and
267 nonmanufactured agricultural or horticultural products may be
268 incidentally used to haul farm implements and fertilizers
269 delivered direct to the growers. The department may require any
270 documentation deemed necessary to determine eligibility prior to
271 issuance of this license plate. For the purpose of this
272 paragraph, "not-for-hire" means the owner of the motor vehicle
273 must also be the owner of the raw, unprocessed, and
274 nonmanufactured agricultural or horticultural product, or the
275 user of the farm implements and fertilizer being delivered.

276 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
277 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

278 (a)1. A semitrailer drawn by a GVW truck tractor by means
279 of a fifth-wheel arrangement: \$13.50 flat per registration year
280 or any part thereof, of which \$3.50 shall be deposited into the
281 General Revenue Fund.

282 2. A semitrailer drawn by a GVW truck tractor by means of a
283 fifth-wheel arrangement: \$68 flat per permanent registration, of
284 which \$18 shall be deposited into the General Revenue Fund.

285 (b) A motor vehicle equipped with machinery and designed
286 for the exclusive purpose of well drilling, excavation,
287 construction, spraying, or similar activity, and which is not
288 designed or used to transport loads other than the machinery
289 described above over public roads: \$44 flat, of which \$11.50
290 shall be deposited into the General Revenue Fund.

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291 (c) A school bus used exclusively to transport pupils to
 292 and from school or school or church activities or functions
 293 within their own county: \$41 flat, of which \$11 shall be
 294 deposited into the General Revenue Fund.

295 (d) A wrecker, as defined in s. 320.01, which is used to
 296 tow a vessel as defined in s. 327.02, a disabled, abandoned,
 297 stolen-recovered, or impounded motor vehicle as defined in s.
 298 320.01, or a replacement motor vehicle as defined in s. 320.01:
 299 \$41 flat, of which \$11 shall be deposited into the General
 300 Revenue Fund.

301 (e) A wrecker that is used to tow any nondisabled motor
 302 vehicle, a vessel, or any other cargo unless used as defined in
 303 paragraph (d), as follows:

304 1. Gross vehicle weight of 10,000 pounds or more, but less
 305 than 15,000 pounds: \$118 flat, of which \$31 shall be deposited
 306 into the General Revenue Fund.

307 2. Gross vehicle weight of 15,000 pounds or more, but less
 308 than 20,000 pounds: \$177 flat, of which \$46 shall be deposited
 309 into the General Revenue Fund.

310 3. Gross vehicle weight of 20,000 pounds or more, but less
 311 than 26,000 pounds: \$251 flat, of which \$65 shall be deposited
 312 into the General Revenue Fund.

313 4. Gross vehicle weight of 26,000 pounds or more, but less
 314 than 35,000 pounds: \$324 flat, of which \$84 shall be deposited
 315 into the General Revenue Fund.

316 5. Gross vehicle weight of 35,000 pounds or more, but less
 317 than 44,000 pounds: \$405 flat, of which \$105 shall be deposited
 318 into the General Revenue Fund.

319 6. Gross vehicle weight of 44,000 pounds or more, but less

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320 than 55,000 pounds: \$772 flat, of which \$200 shall be deposited
 321 into the General Revenue Fund.

322 7. Gross vehicle weight of 55,000 pounds or more, but less
 323 than 62,000 pounds: \$915 flat, of which \$237 shall be deposited
 324 into the General Revenue Fund.

325 8. Gross vehicle weight of 62,000 pounds or more, but less
 326 than 72,000 pounds: \$1,080 flat, of which \$280 shall be
 327 deposited into the General Revenue Fund.

328 9. Gross vehicle weight of 72,000 pounds or more: \$1,322
 329 flat, of which \$343 shall be deposited into the General Revenue
 330 Fund.

331 (f) A hearse or ambulance: \$40.50 flat, of which \$10.50
 332 shall be deposited into the General Revenue Fund.

333 (6) MOTOR VEHICLES FOR HIRE.—

334 (a) Under nine passengers: \$17 flat, of which \$4.50 shall
 335 be deposited into the General Revenue Fund; plus \$1.50 per cwt,
 336 of which 50 cents shall be deposited into the General Revenue
 337 Fund.

338 (b) Nine passengers and over: \$17 flat, of which \$4.50
 339 shall be deposited into the General Revenue Fund; plus \$2 per
 340 cwt, of which 50 cents shall be deposited into the General
 341 Revenue Fund.

342 (7) TRAILERS FOR PRIVATE USE.—

343 (a) Any trailer weighing 500 pounds or less: \$6.75 flat per
 344 year or any part thereof, of which \$1.75 shall be deposited into
 345 the General Revenue Fund.

346 (b) Net weight over 500 pounds: \$3.50 flat, of which \$1
 347 shall be deposited into the General Revenue Fund; plus \$1 per
 348 cwt, of which 25 cents shall be deposited into the General

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349 Revenue Fund.

350 (8) TRAILERS FOR HIRE.—

351 (a) Net weight under 2,000 pounds: \$3.50 flat, of which \$1
352 shall be deposited into the General Revenue Fund; plus \$1.50 per
353 cwt, of which 50 cents shall be deposited into the General
354 Revenue Fund.

355 (b) Net weight 2,000 pounds or more: \$13.50 flat, of which
356 \$3.50 shall be deposited into the General Revenue Fund; plus
357 \$1.50 per cwt, of which 50 cents shall be deposited into the
358 General Revenue Fund.

359 (9) RECREATIONAL VEHICLE-TYPE UNITS.—

360 (a) A travel trailer or fifth-wheel trailer, as defined by
361 s. 320.01(1)(b), that does not exceed 35 feet in length: \$27
362 flat, of which \$7 shall be deposited into the General Revenue
363 Fund.

364 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:
365 \$13.50 flat, of which \$3.50 shall be deposited into the General
366 Revenue Fund.

367 (c) A motor home, as defined by s. 320.01(1)(b)4.:

368 1. Net weight of less than 4,500 pounds: \$27 flat, of which
369 \$7 shall be deposited into the General Revenue Fund.

370 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
371 which \$12.25 shall be deposited into the General Revenue Fund.

372 (d) A truck camper as defined by s. 320.01(1)(b)3.:

373 1. Net weight of less than 4,500 pounds: \$27 flat, of which
374 \$7 shall be deposited into the General Revenue Fund.

375 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
376 which \$12.25 shall be deposited into the General Revenue Fund.

377 (e) A private motor coach as defined by s. 320.01(1)(b)5.:

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378 1. Net weight of less than 4,500 pounds: \$27 flat, of which
379 \$7 shall be deposited into the General Revenue Fund.

380 2. Net weight of 4,500 pounds or more: \$47.25 flat, of
381 which \$12.25 shall be deposited into the General Revenue Fund.

382 (10) PARK TRAILERS; TRAVEL TRAILERS; FIFTH-WHEEL TRAILERS;
383 35 FEET TO 40 FEET.—

384 (a) *Park trailers.*—Any park trailer, as defined in s.
385 320.01(1)(b)7.: \$25 flat.

386 (b) *Travel trailers or fifth-wheel trailers.*—A travel
387 trailer or fifth-wheel trailer, as defined in s. 320.01(1)(b),
388 that exceeds 35 feet: \$25 flat.

389 (11) MOBILE HOMES.—

390 (a) A mobile home not exceeding 35 feet in length: \$20
391 flat.

392 (b) A mobile home over 35 feet in length, but not exceeding
393 40 feet: \$25 flat.

394 (c) A mobile home over 40 feet in length, but not exceeding
395 45 feet: \$30 flat.

396 (d) A mobile home over 45 feet in length, but not exceeding
397 50 feet: \$35 flat.

398 (e) A mobile home over 50 feet in length, but not exceeding
399 55 feet: \$40 flat.

400 (f) A mobile home over 55 feet in length, but not exceeding
401 60 feet: \$45 flat.

402 (g) A mobile home over 60 feet in length, but not exceeding
403 65 feet: \$50 flat.

404 (h) A mobile home over 65 feet in length: \$80 flat.

405 (12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised
406 motor vehicle dealer, independent motor vehicle dealer, marine

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boat trailer dealer, or mobile home dealer and manufacturer
license plate: \$17 flat, of which \$4.50 shall be deposited into
the General Revenue Fund.

(13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or
official license plate: \$4 flat, of which \$1 shall be deposited
into the General Revenue Fund, except that the registration or
renewal of a registration of a marine boat trailer exempt under
s. 320.102 is not subject to any license tax.

(14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor
vehicle for hire operated wholly within a city or within 25
miles thereof: \$17 flat, of which \$4.50 shall be deposited into
the General Revenue Fund; plus \$2 per cwt, of which 50 cents
shall be deposited into the General Revenue Fund.

(15) TRANSPORTER.—Any transporter license plate issued to a
transporter pursuant to s. 320.133: \$101.25 flat, of which
\$26.25 shall be deposited into the General Revenue Fund.

Section 9. Subsection (1) of section 655.960, Florida
Statutes, is amended to read:

655.960 Definitions; ss. 655.960-655.965.—As used in this
section and ss. 655.961-655.965, unless the context otherwise
requires:

(1) "Access area" means any paved walkway or sidewalk which
is within 50 feet of any automated teller machine. The term does
not include any street or highway open to the use of the public,
as defined in s. 316.003(80)(a) ~~316.003(79)(a)~~ or (b), including
any adjacent sidewalk, as defined in s. 316.003.

Section 10. This act shall take effect July 1, 2018.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/14/17
Meeting Date

JB 504
Bill Number (if applicable)

Topic Auto cycles Amendment Barcode (if applicable)

Name James B. "Doc" Reichenbach II

Job Title State President

Address PO Box 712 Phone 352-362-2130

Silver Springs 34489
City State Zip
Email abatef1@afl.net

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Abate of Florida, Inc.

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-14-17

Meeting Date

SB504

Bill Number (if applicable)

Topic SB 504 - Anticycl

Amendment Barcode (if applicable)

Name James Harold Thompson

Job Title APH / Lobbyist

Address 123 S. Calhoun

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-545-9556

Email JThompson@aqstet.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Polaris

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-14-2017

Meeting Date

504

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/2017
Meeting Date

SB 504
Bill Number (if applicable)

Topic Autocycles

Amendment Barcode (if applicable)

Name Jennifer Langston

Job Title Legislative Affairs Director

Address 2905 Apalachee Pkwy
Street
Tall, FL 32399
City State Zip

Phone 407-3195

Email jennifer.langston@flhsmv.gov

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLHSMV

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: CS/SB 572

INTRODUCER: Senators Mayfield and Gainer

SUBJECT: High-speed Passenger Rail

DATE: November 14, 2017 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Fav/CS
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 572 creates the Florida High-Speed Passenger Rail Safety Act. Specifically, the bill provides a short title, definitions relating to the act, Legislative intent, and applicability; assigns various duties to the Florida Department of Transportation (FDOT); and imposes certain reporting requirements on railroad companies and the FDOT. The bill specifies that the reporting requirements are for informational purposes only and may not be used to economically regulate a railroad company.

The bill also requires railroad companies to install certain technology and equipment; allocates responsibility for certain maintenance, repair, improvement and upgrade costs to railroad companies; and provides that it does not impair existing contracts with respect to its requirements related to maintenance and repair of roadbeds, tracks, and culverts, as well as safety equipment maintenance and improvements and upgrades to railroad-highway crossings. The bill also provides for enforcement jurisdiction and requires any penalty for a violation of the bill's provisions to be imposed upon the railroad company that commits such violation.

The bill raises a number of federal preemption issues as discussed in more detail throughout the remainder of this analysis.

The bill may have an indeterminate negative fiscal impact on the private sector and on state governments, and an indeterminate positive fiscal impact on local governments to the extent that future costs are avoided. See Section V. Fiscal Impact Statement for details.

II. Present Situation:

Following general discussion of current and relevant federal and state provisions of law, the present situation for each section of the bill is discussed below in conjunction with the Effect of Proposed Changes.

The Federal Regulatory Framework for Railroad Activities

The reach of federal law and regulations relating to various aspects of rail activities is extensive. Recognition of the need to regulate railroad operations at the federal level to provide uniformity, and Congress' authority under the Commerce Clause¹ to regulate the railroads, is well established.² The U.S. Supreme Court has on numerous occasions recognized the preemptive effect of federal regulation of railroads, a scheme that is "among the most pervasive and comprehensive."³ State and local regulation is often, but not always, preempted. A number of federal laws apply, but the following relevant federal provisions often involve questions of preemption of state and local efforts to regulate railroad activities.

The Interstate Commerce Commission Termination Act of 1995

The Interstate Commerce Commission Termination Act of 1995 (ICCTA)⁴ granted to the Surface Transportation Board (STB) exclusive jurisdiction, previously exercised by the Interstate Commerce Commission,⁵ over:

- Transportation by rail carriers⁶ and the remedies provided with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and
- The construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one state.

Except as otherwise provided, the remedies "with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law."⁷

State or local attempts to intrude into matters directly regulated by the STB; e.g., railroad rates, services, construction, or abandonment, are categorically preempted. ICCTA also prevents state or local imposition of requirements that could be used to deny a railroad the right to conduct rail operations or proceed with activities authorized by the STB. Even if a state or local requirement is not categorically preempted, state and local attempts to impose requirements on railroads may

¹ U.S. Const. art. VI.

² See *City of Auburn v. United States*, 154 F.3d 1025 (9th Circuit 1998).

³ See, e.g., *Chicago & N.W. Transp. Co v. Kalo Brick & Tile Co.*, 450 U.S. 311, 318 (1981).

⁴ 49 U.S.C. 10101 *et seq.*

⁵ ICCTA abolished the Interstate Commerce Commission.

⁶ Defined to mean a person providing common carrier railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation. 49 U.S.C. 10102(5).

⁷ 49 U.S.C. 10501(b).

be preempted as applied; i.e., if the requirements unreasonably burden or interfere with rail transportation.⁸

Thus, ICCTA preempts regulations that unreasonably interfere with railroad operations that come within the STB's jurisdiction, regardless of whether the STB actively regulates the particular activity involved. ICCTA is broad and far-reaching, but "state and local actions taken under their retained police powers" are not preempted "as long as they do not unreasonably interfere with railroad operations or the Board's regulatory programs."⁹

"States and towns may exercise traditional police powers over the development of railroad property, at least to the extent that the regulations protect the public health and safety, are settled and defined, can be obeyed with reasonable certainty, entail no extended or open-ended delays, and can be approved (or rejected) without the exercise of discretion on subjective questions."¹⁰

A conclusion as to whether a state or local regulation is preempted "requires a factual assessment of whether that action would have the effect of preventing or unreasonably interfering with railroad transportation."¹¹

The Federal Railroad Safety Act

The purpose of the federal rail safety program is to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents.¹² The program is implemented through mandatory federal safety requirements and through joint efforts of FRA and state inspections to determine compliance of railroads, shippers, and manufacturers with the federal requirements.¹³

The general rule with respect to railroad safety and security calls for national uniformity to the extent practicable. Like the ICCTA, the Federal Railroad Safety Act (FRSA) may also preempt state and local actions. The FRSA in 49 U.S.C. s. 20106 contains an express preemption provision authorizing a state to adopt or continue in force a law, regulation, or order related to rail safety or security until the Secretary of Transportation (as to railroad safety) or the Secretary of Homeland Security (as to railroad security) issues a regulation or order covering the subject matter of the state requirement.

⁸ Surface Transportation Board Decision, Docket No. FD 35792, Decided October 29, 2014 (citations omitted), available at: <https://www.stb.gov/decisions/readingroom.nsf/cac42df635267da4852572b80041558c/2c4e7a01a148e0a385257d8200477be9?OpenDocument> (last visited October 27, 2017).

⁹ ICCTA preempts more than explicit economic regulation. While "Congress was particularly concerned about state economic regulation of railroads when it enacted the ICCTA[.]" "[w]hat matters is the degree to which the challenged regulation burdens rail transportation..." not the label placed on the regulation, economic or otherwise. "The ICCTA 'completely preempts state laws (and remedies based on such laws) that directly attempt to manage or govern a railroad's decisions in the economic realm.'" See *Town of Atherton v. California High-Speed Rail Authority*, 228 Ca.App.4th 314, 331 (July 24, 2014) (citations omitted).

¹⁰ *Emerson v. Kansas City S. Ry. Co.*, 503 F.3d 1126, 1133 (10th Cir. 2007), citing *Green Mountain R.R. Corp. v. Vermont*, 404 F.3d 638, 643 (2d Cir. 2005) (internal quotation marks omitted). *Emerson* collects, with citations, a number of examples of circumstances under which ICCTA preemption did and did not apply.

¹¹ *Id.*

¹² 49 U.S.C. 20101.

¹³ See 49 C.F.R. 212.101.

Additionally, a state may adopt or continue a more stringent law, regulation or order relating to railroad safety or security if the law, regulation, or order:

- Is necessary to eliminate or reduce an essentially local safety hazard;
- Is not incompatible with a law, regulation, or order of the United States Government; and
- Does not unreasonably burden interstate commerce.¹⁴

The Federal Hazardous Material Transportation Law

The purpose of the Federal Hazardous Materials Transportation Law (HMTL)¹⁵ “is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.”¹⁶ The United States Department of Transportation (U.S.D.O.T.) secretary is charged with prescribing regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce.¹⁷ A number of federal agencies share enforcement. One of the FRA’s primary emphases is on the transportation or shipment of hazardous material by rail.

The HMTL also contains express preemption provisions. Except as otherwise provided, a state or local requirement relating to rail safety or security is preempted if:

- Complying with the state or local requirement and a federal requirements is not possible;¹⁸
- A state or local requirement, as applied or enforced, is an obstacle to carrying out a federal safety requirement or regulation or security regulation or directive;¹⁹
- A state or local requirement relating to any of the following is not substantively the same as a federal requirement:
 - The designation, description, and classification of hazardous material;
 - The packing, repacking, handling, labeling, marking, and placarding of hazardous material;
 - The preparation, execution, and use of shipping documents related to hazardous material and requirement related to the number, contents, and placement of those documents;
 - The written notification, recording, and reporting of the unintentional release in transportation of hazardous material and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident; and
 - The designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is

¹⁴ The FRSA was amended in 2007 to clarify that the preemption provision does not preempt an action under state law seeking damages for personal injury, death, or property damage alleging a party failed to comply with the Federal standard of care established by the Transportation or Homeland Security secretaries covering the subject matter; failed to comply with its own plan, rule, or standard that it created pursuant to a regulation or order issued by either of the secretaries; or has failed to comply with a state law, regulation, or order not incompatible with 49 U.S.C. s. 20106(a)(2)..

¹⁵ 49 U.S.C. 5101-5128.

¹⁶ 49 U.S.C. 5101.

¹⁷ 49 U.S.C. 5103

¹⁸ Labeled the “dual compliance” test. See discussion of federal preemption in *Preemption Determination No. PD-18(R), Broward County, Florida’s Requirements on the Transportation of Certain Hazardous Materials to or From Points in the County*, at p. 81951, available at: <https://www.federalregister.gov/documents/2000/12/27/00-32885/preemption-determination-no-pd-18r-broward-county-floridas-requirements-on-the-transportation-of>. (Last visited October 30, 2017.)

¹⁹ Labeled the “obstacle” test. *Id.*

represented, marked, certified, or sold as qualified for use in transportation hazardous material in commerce.²⁰

Section 5125(d) of 49 U.S.C. authorizes a person (including a state, political subdivision of a state, or Indian tribe) directly affected by a requirement of the state, political subdivision or Indian tribe to apply to the U.S.D.O.T. secretary for a determination of whether such a requirement is preempted.

A state, political subdivision, or Indian tribe may also in some cases apply to the secretary for a waiver of preemption, and the secretary may waive preemption if the given requirement provides the public at least as much protection as do the federal HMTL provisions and regulations and is not an unreasonable burden on commerce.²¹

Rail Programs and Activity in Florida

Section 341.302, F.S., prescribes the duties and responsibilities of the FDOT in relation to Florida's rail program. The FDOT, in conjunction with other governmental units and the private sector, is directed to develop and implement a statewide rail program ensuring "the proper maintenance, safety, revitalization, and expansion of the rail system" necessary to respond to statewide mobility needs.²² The rail system plan must identify the priorities, programs, and funding levels required to meet statewide needs and assure the maximum use of existing facilities along with the integration and coordination of the various modes of transportation in the most cost-effective manner possible.²³ The FDOT is required to update the rail system plan every two years and to include plans for both passenger and freight rail service.²⁴ The FDOT is also directed to promote and facilitate the implementation of advanced rail systems, including high-speed rail.²⁵

Commuter Rail

In 1988, the FDOT and CSX Transportation, Inc., (CSX) entered into an agreement under which the department bought approximately 81 miles of CSX track and right-of-way in order to operate commuter rail in South Florida. Today, the commuter rail system (Tri-Rail) is operated by the South Florida Regional Transportation Authority and continues to serve Miami-Dade, Broward, and Palm Beach counties.²⁶

In addition, in 2007, the FDOT entered into an agreement with CSX to purchase 61.5 miles of track or right-of-way in Central Florida to provide commuter rail service. Known as SunRail, the first phase of the project opened in 2014, connecting DeBary in Volusia County to Sand Lake

²⁰ Labeled the "substantively the same as" test. *Supra* note 18.

²¹ 49 U.S.C. 5125.

²² Section 341.302, F.S.

²³ Section 341.302(3), F.S.

²⁴ *Id.*

²⁵ Section 341.302(2), F.S.

²⁶ See the Tri-Rail website under the *Destinations* tab, available at: <http://www.tri-rail.com/#>. (Last visited October 31, 2017).

Road in Orange County and featuring 12 Central Florida stations.²⁷ The FDOT operates the SunRail system, and CSX continues to operate freight trains in the corridor.

SunRail began its southern expansion into Osceola County in 2016, with construction underway to link Sand Lake Road to Poinciana in Osceola County. The project is a 17.2-mile segment featuring four additional stations expected to be up and running by mid-2018.²⁸ Northern expansion plans are expected to link DeBary to DeLand in Volusia County. This project is a 12-mile segment, adding one station to the existing system.²⁹

High-Speed Rail/Florida Rail Enterprise

In November of 2000, the Florida voters approved a constitutional amendment³⁰ mandating the construction of a high-speed transportation system for the state. The amendment required the use of train technologies that operate at speeds in excess of 120 miles per hour. The high-speed rail system was to link the five largest urban areas in Florida, and construction was mandated to begin by November 1, 2003. To implement the constitutional amendment, the Florida Legislature enacted the Florida High-Speed Rail Authority Act³¹ and created the Florida High-Speed Rail Authority in 2002. In November 2004, Florida voters approved repeal of the high-speed rail constitutional amendment.

In 2009, the Legislature repealed the Florida High-Speed Rail Authority and re-named the Florida High-Speed Rail Act as the Florida Rail Enterprise Act.³² In place of the Authority, the Legislature established the Florida Rail Enterprise as part of the FDOT³³ and directed the Enterprise to locate, plan, design, finance, construct, maintain, own, operate, administer, and manage the high-speed rail system in the state.³⁴ The Legislature also created the Florida Statewide Passenger Rail Commission to advise the FDOT on policies and strategies for a coordinated statewide system of passenger rail services, and evaluating passenger rail policies and provided advice and recommendations. The Commission was abolished in 2014.³⁵

Section 341.822, F.S., authorizes the Rail enterprise to plan, construct, maintain, repair, and operate a high-speed rail system, to acquire corridors, and to coordinate the development and operation of publicly funded passenger rail systems in the state. The FDOT is the only governmental entity authorized to acquire, construct, maintain, or operate the high-speed rail system.³⁶

²⁷ See the SunRail website available at: <http://corporate.sunrail.com/stations-trains/phase-1-stations/>. (Last visited October 30, 2017).

²⁸ See the SunRail website available at: <http://corporate.sunrail.com/stations-trains/phase-2-south-stations/>. (Last visited October 30, 2017).

²⁹ See the SunRail website available at: <http://corporate.sunrail.com/stations-trains/phase-2-north-stations/>. (Last visited October 30, 2017).

³⁰ Section 19, Article X of the State Constitution.

³¹ Sections 341.8201 through 341.842, F.S. (2002).

³² Chapter 2009-271, L.O.F.

³³ See s. 20.23(4)(a), F.S.

³⁴ Section 341.822, F.S.

³⁵ Chapter 2014-223, L.O.F.

³⁶ Defined in s. 341.8203(4), F.S., to mean any high-speed fixed guideway system for transporting people or goods, which system is, by definition of the United States Department of Transportation, reasonably expected to reach speeds of at least 110 miles per hour, including but not limited to, a monorail system, dual track rail system, suspended rail system, magnetic

The All Aboard Florida Project

Florida East Coast Industries (FECI) was incorporated in 1983 and became the holding company for the Florida East Coast Railway (FECR).³⁷ In 2007, Fortress Investment Group (Fortress) acquired FECI.³⁸ All Aboard Florida (AAF) is a wholly owned subsidiary of FECI.³⁹ Japanese-based SoftBank agreed to purchase Fortress, and Grupo Mexico acquired the FECR, both in July of this year.⁴⁰

AAF is currently developing an express train service, called “Brightline,” using the existing FECR corridor between Miami and Cocoa. AAF will build new track along State Road 528 between Cocoa and Orlando. Service between Miami and West Palm Beach is expected to be launched in the near future, with service from Miami to Orlando following. Improving the route between Miami and Cocoa, building out the route between Cocoa and Orlando, and constructing train stations in Miami, Fort Lauderdale, and West Palm Beach is to occur in the meantime. Station construction projects are at various stages.⁴¹

According to AAF, Brightline will travel at speeds between 79 and 125 miles per hour. Between Miami and West Palm, the trains will travel up to 79 mph; between West Palm to Cocoa, up to 110 mph; and from Cocoa to Orlando, up to 125 mph, with actual speed varying depending on corridor conditions and configurations.⁴² New signal systems, upgraded crossings, double tracking and other improvements for the existing rail corridor between Cocoa and Miami are included in the construction plans.⁴³

Cities and counties along Florida’s east coast reportedly have existing crossing agreements with Florida East Coast Railway. Under those agreements, the local governments usually have financial responsibility for crossing signal installations, capital improvements for track beds and roadway surfaces, crossing maintenance costs, and pedestrian gates and sidewalks.⁴⁴ AAF

levitation system, pneumatic repulsion system, or other system approved by the enterprise. The term is broadly defined and includes a long list of additional items in the definition.

³⁷ See the Florida East Coast Railway website available at: <http://www.fecrwy.com/about/history>. (Last visited March 8, 2017.)

³⁸ See article *Fortress Buying Florida’s Flagler Development in \$3.5B Deal*, available at: [http://www.costar.com/News/Article/Fortress-Buying-Floridas-Flagler-Development-in-\\$35B-Deal/89781](http://www.costar.com/News/Article/Fortress-Buying-Floridas-Flagler-Development-in-$35B-Deal/89781). (Last visited March 8, 2017.)

³⁹ See the AAF website available at: <http://www.allaboardflorida.com/>. (Last visited October 25, 2017.)

⁴⁰ See the respective articles, *Fortress Shareholders Approve Proposed Acquisition by SoftBank*, available at: <http://www.4-traders.com/FORTRESS-INVESTMENT-GROUP-42554/news/Fortress-Investment-LLC-07-12-17-Fortress-Shareholders-Approve-Proposed-Acquisition-by-SoftBank-24748345/>, and, *Grupo Mexico Completes Florida East Coast Acquisition*, available at: <http://www.railjournal.com/index.php/north-america/grupo-mexico-completes-florida-east-coast-acquisition.html>. (Last visited November 8, 2017.)

⁴¹ *Supra* note 39.

⁴² See video of the House Transportation & Infrastructure Subcommittee workshop on high-speed passenger rail, February 22, 2017, available at: http://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=2443575804_2017021306&committeeID=2914. (Last visited November 3, 2017.)

⁴³ *Supra* note 39.

⁴⁴ See Martin County document, *Direct Costs to Treasure Coast from High-Speed Rail* (On file in the Senate Transportation Committee).

reportedly wishes to be named a third-party beneficiary in those agreements already in place⁴⁵ and reportedly has accomplished that goal, at least in some cases.⁴⁶ At least one local government has reportedly entered into new agreements with AAF identifying responsibility for safety upgrades and maintenance.⁴⁷

III. Effect of Proposed Changes:

The bill creates the Florida High-Speed Passenger Rail Safety Act, assigning various duties to the FDOT related to certain privately owned High-Speed Passenger Rail (HSPR) operations. The bill imposes certain reporting requirements on railroad companies, requires installation of certain technology and equipment, and allocates costs and responsibility for certain rail corridor maintenance, repair, improvements and upgrades. The bill also provides for enforcement jurisdiction under s. 316.640, F.S., relating to enforcement of the traffic laws of this state.

Short Title, Definitions, Legislative Intent, and Applicability (Sections 1-4)

Present Situation

While Florida law does contain definitions relating to a publicly funded passenger rail system and a number of provisions relating to high-speed rail, Florida law currently does not specifically contain a “High-Speed Passenger Rail Safety Act” nor any definitions, Legislative intent, or applicability provisions specific to such an act.

Effect of Proposed Changes

Section 1 of the bill creates s. 341.601, F.S., providing a short title for the act, the “Florida High-Speed Passenger Rail Safety Act,” including ss. 341.601 through 341.614, F.S.

Section 2 of the bill creates s. 341.602, F.S., providing the following definitions as used in the act:

- “Department” means the Florida Department of Transportation;
- “Freight railroad carrier” means any person, railroad corporation, or other legal entity in the business of providing freight rail transportation;
- “Governmental entity” means the state, any of its agencies, or any of its political subdivisions;
- “Hazardous materials” includes all materials and substances that are now designated or defined as hazardous by 49 C.F.R. parts 100-199 and its implementing regulations, by 49 U.S.C. s. 9601, and in any state law, rule, or program that regulates handling or transporting of such materials, wastes, or substances.

⁴⁵ See article, *Two votes today could clear way for All Aboard Florida*, available at:

<http://realtime.blog.palmbeachpost.com/2014/10/21/does-all-aboard-floridas-fate-hinge-on-brevard-county-vote/>. (Last visited November 3, 2017.) See also article *Boynton May Sign Agreement With All Aboard*, available at:

<https://www.citizensagainsthetrain.com/content/boynton-may-sign-agreement-all-aboard>. (Last visited February 27, 2017.)

⁴⁶ See article, *Miami Certain, Brevard Skeptical but both give approval to fund bonds to advance rail project*, available at: <http://www.floridanotallaboard.net/news/miami-certain-brevard-skeptical-but-both-counties-give-approval-to-fund-bonds-to-advance-rail-project/>. (Last visited November 3, 2017.)

⁴⁷ See article, *Boynton signs All Aboard Florida agreement against residents’ wishes*, available at:

<http://spbc.blog.palmbeachpost.com/2014/10/08/boynton-signs-all-aboard-florida-agreement-against-residents-wishes/>. (Last visited November 3, 2017.)

- “High-speed passenger rail system” (HSPR system) means any new intrastate passenger rail system that operates or proposes to operate its passenger trains at a maximum speed in excess of 80 miles per hour and which was not carrying passengers before January 1, 2017.
- “Pedestrian grade crossing” means a separate sidewalk or pathway where pedestrians, but not vehicles, cross railroad tracks.
- “Public railroad-highway grade crossing” means a location at which a railroad track is crossed at grade by a public road.
- “Rail corridor” means a linear, continuous strip of real property that is used for rail service. The term includes the corridor and structures essential to railroad operations, including the land, buildings, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power relays, switching houses, rail stations, any ancillary development, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service.
- “Railroad company” means any individual, partnership, association, corporation, or company and its respective lessees, trustees, or receivers, appointed by a court, which develops or provides ground transportation that runs on rails, including, but not limited to any of the following:
 - A HSPR system;
 - A freight railroad carrier; or
 - A company that owns a rail corridor.

Section 3 of the bill creates s. 341.603, F.S., expressing the Legislature’s intent to encourage the creation of safe and cost-effective transportation options for this state’s residents and visitors, including HSPR systems; and to promote and enhance the safety of HSPR systems operating within the state to protect the health, safety, and welfare of the public.

Section 4 of the bill creates s. 341.604, F.S., applying the act to any railroad company operating a HSPR system and any railroad company that allows a HSPR system to operate on or within its rail corridor.

FDOT Powers, Duties, and Rulemaking (Section 5)

Present Situation

FDOT Authority to Regulate Railroad Companies/Obtain Information/Keep Records: Except for specific areas referred to in state law (such as rail crossings and federally delegated safety inspections), the FDOT’s regulatory authority over railroad companies is limited in scope. Under the federal regulatory scheme, state or local attempts to regulate railroad companies, including obligating a railroad to provide information and requiring a railroad to keep records, may or may not be preempted under one or more federal laws.

Effect of Proposed Changes

Section 5 of the bill creates s. 341.605, F.S., providing the FDOT may:

- Regulate railroad companies in this state insofar as such authority is not preempted by federal laws or regulations; and
- Obtain from any party all information necessary to enable it to perform its duties and carry out the act’s requirements.

In addition, the bill requires the FDOT to:

- Keep a record of all its findings, decisions, determinations, and investigations carried out under the act;
- Adopt rules to administer the act.

Whether federal preemption applies to these provisions is dependent upon the particular regulation, the information sought, and the record-keeping requirement. For example, if the regulation or requirement is already addressed in one or more federal provisions, an analysis under those provisions must be conducted to determine whether preemption, or any exception to preemption, applies. Research reveals numerous examples of litigation involving such questions, with results turning on the specific words of, and sometimes their placement in, any given regulation. To the extent that any state regulation or record-keeping requirement is not preempted, and the FDOT has state-granted legal authority, the FDOT may exercise such authority. The same analysis would apply to any FDOT rule adopted pursuant to the bill's rulemaking authority.

Hazardous Materials Training (Section 6)

Present Situation

Hazardous material employers are required to train their hazardous material employees and to keep certain records related to that training.⁴⁸ Federal law allows company employees, outside training firms, federal and state agencies, colleges and universities, and any other organization that can meet the objectives of the training requirements to provide hazardous material training.⁴⁹ Computer-based training programs are also available.⁵⁰ Florida law charges the Florida Division of Emergency Management (FDEM) with coordinating federal, state, and local emergency management activities to ensure the availability of adequately trained and equipped forces of emergency management personnel before, during, and after emergencies and disasters. Additionally, the FDEM is responsible for implementing training programs to improve the ability of state and local emergency management personnel to prepare and implement emergency management plans and programs.⁵¹

Effect of Proposed Changes

Section 6 of the bill creates s. 341.606, F.S., requiring the FDEM, if a HSPR system operates within the same rail corridor or on the same set of tracks as another railroad company that transports hazardous materials, to offer the local communities and local emergency services located along the corridor training specifically designed to help them respond to an accident involving rail passengers or hazardous materials.

⁴⁸ See 49 C.F.R. 172, Subpart H (10-1-2016).

⁴⁹ See the FRA presentation *Developing a Hazardous Materials Training Program, What You Should Know*. (On file in the Senate Transportation Committee.) See also 49 C.F.R. 172.704 (10-1-2016).

⁵⁰ See the U.S.D.O.T. website available at: <https://www.phmsa.dot.gov/training/hazmat/training-modules>. (Last visited October 26, 2017.)

⁵¹ Section 252.35(2)(l) and (n), F.S.

A review of the FDEM's website suggests that similar training may already be available.⁵²

Reporting Requirements (Section 7)

Present Situation

Florida law does not currently address railroad company reporting requirements related to accident reports, liquefied natural gas (LNG) shipments, insurance and financial disclosure, or worst-case LNG release impacts.

Accident Reports: With certain exceptions, each railroad is required to submit to the FRA a monthly report of all railroad accidents or incidents that are:

- Highway-rail grade crossing accidents;
- Rail equipment accidents (collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment resulting in specified damages); and
- Death, injury, or occupational illness.⁵³

Federal regulations prescribe the forms to be used, which must be completed in accordance with the current FRA Guide and submitted within 30 days after expiration of the month during which the accidents occur.⁵⁴ The FRA Office of Safety Analysis makes available railroad safety information, including accidents and incidents, inventory, and highway-rail crossing data, on a website that allows queries for accident, casualty, and crossing accident data by state.⁵⁵ Federal law authorizes any state to require railroads, for occurrences within that state, to submit to the state copies of accident/incident and injury/illness reports filed with the FRA.⁵⁶

LNG Shipment by Rail: LNG is classified as a hazardous material.⁵⁷ Current federal regulations prohibit transportation of bulk packaging (e.g., portable tanks, intermediate bulk containers, large packaging, cargo tanks, multi-unit tank car tanks) containing a hazardous material in container-on-flatcar (COFC) or trailer-on-flatcar (TOFC) service except as authorized by 49 C.F.R. 174.63⁵⁸ or unless approved for transportation by the FRA Associate Administrator for Safety. Alaska Railroad received approval to conduct a demonstration project in late 2016.⁵⁹

In March of 2016, the FRA responded to an FECR application to transport LNG by rail in intermodal portable tanks in COFC or TOFC service from origination and destination points on the FECR network. The FECR listed several “next steps” regarding the request, including

⁵² See the FDEM's website available at: <http://floridadisaster.org/Preparedness/TrainingandExercise/index.htm>. (Last visited November 7, 2017.)

⁵³ 49 C.F.R. 225.11 and 225.19 (10-1-2016).

⁵⁴ 49 C.F.R. 225.11 (10-1-2016).

⁵⁵ See the FRA website available at: <http://safetydata.fra.dot.gov/OfficeofSafety/default.aspx>. (Last visited November 3, 2017.)

⁵⁶ 49 C.F.R. 225.1. (10-1-2016).

⁵⁷ See the Table Of Hazardous Materials, 49 C.F.R. 172.101 (10-1-16) available at: <https://www.gpo.gov/fdsys/pkg/CFR-2016-title49-vol2/pdf/CFR-2016-title49-vol2-sec172-101.pdf>. (Last visited November 3, 2017.)

⁵⁸ This section of the federal regulations lays out very specific conditions under which bulk-packaged hazardous materials may be transported on the specified cars, based on factors such as the type of transport vehicle, restraint system, container support system, and load configuration.

⁵⁹ See https://www.alaskarailroad.com/sites/default/files/communications/2016_LNG_Transport_Demo_Project.pdf. (Last visited November 3, 2017.)

submission of restraint system design details; five-year historical accident experience data on the proposed route; analyses, experimental data, or other identifiable scientific data used in designing the rail car on which the tanks are mounted; and a detailed risk analysis of the proposed operation and mitigation measures. The response also required the FECR to conduct a specified safety analysis of the rail cars planned for transport use, and to ensure each portable tank is equipped with functioning GPS-based, telemetric communication equipment. The FRA also listed a number of additional conditions anticipated to be imposed to ensure operational safety, as well as unknown conditions that may be imposed after learning from Alaska's experience.⁶⁰

The current status of the FECR application is unknown, except that the FECR has reportedly indicated that its request applied not to the entire Miami-to Jacksonville corridor, but only to the portion between Miami and Fort Lauderdale. The FECR also reportedly advised that the FECR "has already received approval, and has begun transporting LNG between Port Miami and Port Everglades in Fort Lauderdale."⁶¹

Insurance and Financial Disclosure: The State of Washington imposes financial disclosure requirements on any railroad company that transports crude oil.⁶² Washington requires any railroad company that transports crude oil in Washington to submit an annual statement containing:

- All insurance that covers losses resulting from a reasonable worst-case spill;
- Coverage amounts, limitations, and other conditions of the insurance;
- Average and largest crude oil train operated in Washington by the railroad company in the previous calendar year;
- Information sufficient to demonstrate the railroad company's ability to pay the costs to clean up a reasonable worst-case spill of oil, including insurance, reserve accounts, letters of credit, or other financial instruments or resources on which the company can rely.
- The railroad's calculation of the total cleanup costs for a reasonable worst-case spill based on a statutory formula involving cleanup cost per barrel, crude oil volumes carried, and operating speed.⁶³

Research reveals no legal challenge to the Washington regulation. It is therefore unknown whether the regulation would withstand a challenge on grounds it is preempted by federal law.

⁶⁰ See the FRA letter to the FEC dated March 3, 2016. (On file in the Senate Transportation Committee.)

⁶¹ See article available at: <http://www.tcpalm.com/story/news/local/shaping-our-future/all-aboard-florida/2017/10/24/Ing-brightline-all-aboard-florida-east-coast-railway-tracks-hazmat-ferromex-grupo-mexico-fortress/791510001/>. (Last visited October 25, 2017.)

⁶² W.A.C. 480-62-300 (2016) available at: <http://apps.leg.wa.gov/WAC/default.aspx?cite=480-62-300>. (Last visited November 3, 2017.)

⁶³ Alaska also has financial disclosure requirements relating to claims resulting from an oil discharge that apply to oil terminals, pipelines, offshore facilities, exploration or production facilities, refineries, tank vessels, oil barges, and railroad tank cars, but not expressly to "railroads" or "railroad companies." See the State of Alaska website available at: <https://dec.alaska.gov/spar/ppr/fr.htm>. (Last visited November 3, 2017.) Additionally, the State of California in 2014 passed regulations for the transportation of oil on or near the waters of the state requiring owners or operators of facilities where an oil spill could impact waters to apply for and obtain a certificate of financial responsibility issued by the State. However, a complaint filed collectively by certain railroad companies for injunctive and declaratory relief was dismissed on ripeness grounds, and the court never reached the question of preemption. The case may be distinguishable on other grounds, however.

Worst-Case Release Calculation: The State of Washington reportedly looked to federal rule making by the Pipeline and Hazardous Materials Safety Administration and the FRA, and to the tank-car derailment and leakage of some 1.6 million gallons of oil in Lac-Megantic, Quebec, in arriving at its regulations.⁶⁴ With respect to onshore oil pipelines, 49 C.F.R part 194 requires such pipeline operators to submit a response plan. Each operator is required to determine the worst-case discharge, providing the methodology and calculations used to arrive at the discharge volume.

Effect of Proposed Changes

Section 7 of the bill creates s. 341.607, F.S., requiring the following:

- A railroad company operating a HSPR system must provide to the FDOT copies of accident reports filed with the FRA for each train accident that occurs within the rail corridor.
- The FDOT must annually publish on its official website a compendium of the reports disclosing all fatalities, injuries, and accidents occurring within the reporting timeframe which have occurred within a rail corridor where a HSPR system operates.
- A railroad company that transports LNG on the same tracks or within the same rail corridor used by a HSPR system must annually submit a report to the FDOT containing:
 - All insurance carried by the railroad company that covers any losses resulting from a reasonable worst-case unplanned release of LNG.
 - Coverage amounts, limitations, and other conditions of the insurance.
 - The average and largest LNG train, as measured in metric tons, operated in the state by the railroad company in the previous calendar year.
 - Information sufficient to demonstrate the railroad company's ability to pay the costs of remediating a reasonable worst-case unplanned release of LNG, including but not limited to, insurance, reserve accounts, letters of credit, or other financial instruments or resources on which the company can rely to pay all such costs.

This section of the bill also requires the FDOT, in coordination with the FRA and other public and private entities, as necessary, to develop rules for determining applicable criteria for a reasonable worst-case unplanned release of LNG.

Additionally, the bill provides that the reporting requirements are for informational purposes only and may not be used to economically regulate the railroad company.

Accident Reports: Requiring a railroad company to furnish to the FDOT copies of accident reports filed with the FRA for each accident occurring within this state is authorized by federal law.⁶⁵ Whether it is permissible under federal law to require the FDOT to take the additional step of *preparing* a compendium of the reports on fatalities, injuries, and accidents during the specified reporting period for publication on the FDOT's website, in addition to simply publishing the FRA-required accident/incident reports on the FDOT website, is unclear.

⁶⁴ See article, *Washington Asks if Railroads Could Afford \$700M Oil Train Spill*, available at: <http://www.bellinghamherald.com/news/local/article60156446.html>. (Last visited November 3, 2017.)

⁶⁵ *Supra* note 53.

Insurance and Financial Disclosure: Whether the bill's provisions that the reporting requirements are for information purposes only and may not be used to economically regulate the railroad company would enable it to withstand a challenge based on preemption is likewise unclear given the absence of any challenge to the Washington statute. However, the bill appears to impose no monetary fine and no preclearance requirement; that is, no prohibition against a railroad company's continued operation if, for example, a railroad reported that it had no ability to pay the costs of remediating a reasonable worst-case unplanned release of LNG, or even if a railroad made no report at all.

Minimum Safety Standards for HSPR and Maintenance/Repair of Roadbeds, Tracks, Culverts, and Certain Streets and Sidewalks (Sections 8 and 9)

Present Situation

Compliance with Federal Law and Regulation: Railroad companies are currently required to comply with any applicable federal law or regulation.

Positive Train Control (PTC): The Rail Safety Improvement Act of 2008 (RSIA) required all Class I railroad main lines (lines over which five million or more gross tons are transported annually) handling any poisonous-inhalation-hazardous materials, and any railroad main lines over which regularly scheduled intercity passenger or commuter rail services are provided, to install PTC by December 31, 2015. PTC is defined to mean "a system designed to prevent train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position."⁶⁶ PTC systems use digital radio communications, global positioning, and fixed wayside signal systems to send and receive in real time a continuous stream of data about the location, direction, and speed of trains. The FRA concluded in August of 2015 that most railroads had not made sufficient progress to meet the December 2015 implementation deadline, despite the FRA's actions to assist railroads, the statutory deadline, and the threat of aggressive enforcement actions, including the imposition of significant civil penalties.⁶⁷

The Positive Train Control Enforcement and Implementation Act of 2015 amended the RSIA, extending the PTC implementation deadline to December 31, 2018; to December 31, 2020, in some circumstances;⁶⁸ and providing an additional extension for certain qualifying small railroads. The FRA subsequently incorporated the revised deadlines in, made conforming changes to, and removed no longer applicable portions of, the PTC regulations in 49 C.F.R. Part 236.⁶⁹

⁶⁶ 49 U.S.C. 20157(i)(5).

⁶⁷ See the FRA's *Status Report to House and Senate Committees on Appropriations*, August 2015, available at: <https://www.fra.dot.gov/eLib/details/L16962>. (Last visited November 3, 2017.)

⁶⁸ A railroad must complete full implementation of its PTC system by December 31, 2020, or the date specified in its approved alternative schedule, whichever is earlier, only if the railroad installs all PTC hardware and acquires all spectrum necessary to implement its PTC system by December 31, 2018; submits an alternative schedule providing for implementation of PTC as soon as practicable, but not later than December 31, 2020; provides written notice that it is prepared for review of its alternative schedule; and received FRA approval. 49 C.F.R. 236.1005 (10-1-2016).

⁶⁹ See Positive Train Control Systems; Final Rule, Federal Register, Vol 81, No. 39 (February 29, 2016), pp. 10126-10130.

Railroad-Highway Grade Crossing Responsibility: The FDOT is granted regulatory authority over all public railroad-highway grade crossings⁷⁰ in the state, including issuance of permits required to open and close any such crossing. The FDOT is directed, in cooperation with railroads operating in the state, to develop and adopt a program for the expenditure of funds available for the construction of projects to reduce hazards at public railroad-highway grade crossings. Section 335.141(2)(b), F.S., requires every railroad company maintaining a public railroad-highway grade crossing, upon reasonable notice from the FDOT, to install, maintain, and operate at such crossing traffic control devices to provide motorists with warning of the approach of trains. The FDOT's notice must be based on its adopted hazard reduction program and on construction efficiency considerations relating to the geographical proximity of crossings included in the program. The FDOT must approve the design of the traffic control devices, and the costs of purchase and installation must be paid from the funds in the adopted program.

A railroad company must maintain at its own expense any public railroad crossing opened prior to July 1, 1972, unless the maintenance has been provided for through a contractual agreement entered into prior to October 1, 1982. If the railroad fails to maintain a crossing, the governmental entity with jurisdiction, after notice to the railroad of needed repairs and 30 days after the railroad's receipt of the notice, is required to make the repairs. The repair cost becomes a lien on the railroad and its rolling stock, enforceable by filing suit, and any judgment includes a reasonable attorney's fee.⁷¹

Pursuant to 23 U.S.C. 130, federal funds are available to states for projects that eliminate rail-highway crossing hazards to both vehicles and pedestrians. State laws requiring railroads to share in the cost of work for the elimination of hazards at rail-highway crossings do not apply to projects using federal funds.⁷² The applicable regulation sets out a railroad's required share of costs in such projects and, in many cases, the railroad has no required share. If a project is not funded through the federal hazard reduction program, it appears state laws requiring a railroad's participation in the cost of rail-highway grade crossing improvements may be permissible, in the absence of any applicable contractual agreement otherwise providing for such costs.

Chapter 351, F.S., contains additional relevant provisions:

- Every railroad company is responsible for erecting and maintaining crossbuck warning signs at all public or private crossings in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).^{73, 74}
- The governmental entity with jurisdiction or maintenance responsibility must install and maintain advance railroad warning signs and pavement markings at public crossings in accordance with the MUTCD.⁷⁵

⁷⁰ Defined to mean a location at which a railroad track is crossed at grade by a public road. Section 335.141(1)(b), F.S.

⁷¹ Section 335.141(2)(c), F.S.

⁷² 23 C.F.R. 646.210 (4-1-16).

⁷³ Section 351.03(1), F.S.

⁷⁴ The MUTCD is the national standard for all traffic control devices installed on any street, highway, bikeway, or private road open to travel and is intended to obtain basic uniformity of traffic control devices. The FDOT has adopted the MUTCD as directed by s. 316.0745, F.S. Per guidance in the manual, "The appropriate traffic control system to be used at a highway-rail grade crossing should be determined by an engineering study involving both the highway agency and the railroad company." See the MUTCD introduction, p. 748, available at: <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part8.pdf>. (Last visited March 12, 2017.)

⁷⁵ Section 351.03(2), F.S.

Prior to the work on the grade or the highway approaches at a public railroad-highway crossing, the railroad or the governmental entity initiating the work must notify the other party to promote coordination and ensure a safe crossing with smooth pavement transitions from the grade of the railroad to the highway approaches.⁷⁶

Remote Health Monitoring (RHM): RHM systems provide a variety of uses and are designed to monitor various functions of railroad operations. They generate data related to fuel consumption; engineer compliance with train operation protocols; train speeds, locations, and direction; control system fault detection; and more. These systems can be customized to fit specific requirements.⁷⁷ In its diagnostic safety review of the FECR grade crossings for the All Aboard Florida project in Brevard and Indian River Counties, the FRA recommended that “four-quadrant gate systems *should* include remote health (status) monitoring capable of automatically notifying railroad or signal maintenance personnel when anomalies have occurred within the system.”⁷⁸ The MUTCD similarly provides that four-quadrant gate systems *should* include RHM but it does not *mandate* RHM inclusion.⁷⁹

Crossing Gate Installation Maintenance of Roadbed/Track/Culverts/Streets/Sidewalks: Cities and counties along Florida’s east coast reportedly have existing crossing agreements with Florida East Coast Railway. Under those agreements, the local governments usually have financial responsibility for crossing signal installations, capital improvements for track beds and roadway surfaces, crossing maintenance costs, and pedestrian gates and sidewalks.⁸⁰

Effect of Proposed Changes

Section 8 of the bill creates s. 341.608, F.S., setting out minimum safety standards for a HSPR system.

Compliance with Federal Law and Regulation: This section of the bill requires a railroad company operating a HSPR system to comply with all federal laws and regulations administered by the FRA. This provision in state law would mirror current federal law.

Positive Train Control (PTC): This section of the bill also requires a railroad company operating a HSPR system to install safety equipment approved by the FRA, which at a minimum must include PTC. As the FRA has issued a final rule on PTC, it appears that this provision of the bill may be preempted.

⁷⁶ Section 351.141(2)(d), F.S.

⁷⁷ See article *Multi-Purpose Monitoring Technology*, October 6, 2014, available at: <http://www.railwayage.com/index.php/communications/multi-purpose-monitoring-technology.html>. (Last visited March 10, 2017.)

⁷⁸ See the FRA *On-Site Engineering Field Report – Part 2*. (On file in the Senate Transportation Committee.)

⁷⁹ See the MUTCD, Part 8, s. 8C.06, available at: <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part8.pdf>. (Last visited March 10, 2017.)

⁸⁰ *Supra*, note 44.

In addition, before operating a HSPR system, the newly created s. 341.608, F.S., requires the railroad company to:

- Install or realign crossing gates, including those at severely skewed, acute-angled locations as identified by the FDOT or the FRA, such that the gates are parallel to the tracks and in accordance with the most recent edition of the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration and adopted by the state pursuant to s. 316.0745, F.S.;
- Equip all automatic public railroad-highway grade crossing warning systems with RHM technology capable of constantly monitoring the highway-railroad crossing to:
- Detect false activations;
 - Detect other crossing signal malfunctions; and
 - Notify the train dispatcher and crossing signal maintenance personnel when a malfunction occurs; and
 - Construct and maintain fencing in accordance with newly created 341.611, F.S., discussed below under the heading, “Fencing Requirements.”

Section 9 of the bill creates s. 341.609, F.S., to impose the following requirements on a railroad company that constructs or operates a HSPR system:

- If a HSPR system is on tracks that intersect with a public street or highway at grade, the railroad company must, at its sole cost and expense, construct, and thereafter maintain, renew, and repair all railroad roadbed, track, and railroad culverts within the confines of the public street or highway, and the streets or pedestrian grade crossings lying between the rails and for a distance outside the rails of one foot beyond the end of the railroad ties.
- If the railroad company is required to install safety improvements that modify the width of a roadbed, the railroad is responsible for ensuring the impacted roadbed meets the FDOT’s transition requirements as set forth in the most recent edition of the FDOT’s Design Standards and the Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways.⁸¹

The bill provides that this newly created s. 341.609, F.S., as is the case under current law, does not impair any existing contractual agreements between the railroad company operating the HSPR system and a governmental entity within the state.

Remote Health Monitoring: While the FRA has recommended RHM for grade crossings that will have four-quadrant gates in Brevard and Indian River Counties, research reveals no federal *requirement* for such monitoring systems as part of warning systems at grade crossings. On the one hand, preemption may not apply under the theory that federal law and regulations have not “covered the subject matter,” thus, allowing a state to enact such a requirement. Additionally, the effect may also turn on whether such installation is funded through the federal hazard reduction program. If not, such a state law requirement may be valid for HSPR systems that are not already covered by a contractual agreement that imposes responsibility for such costs.

⁸¹ The purpose of the manual, adopted by the FDOT as directed in s. 336.045, F.S., “is to provide uniform minimum standards and criteria for the design, construction, and maintenance of public streets, roads, highways, bridges, sidewalks, curbs and curb ramps, cross walks, bicycle facilities, underpasses, and overpasses used by the public for vehicular and pedestrian traffic.” See the FDOT’s website available at: <http://www.fdot.gov/roadway/FloridaGreenbook/FGB.shtm>. (Last visited October 27, 2017.)

Crossing Gate Installation/Realignment, Maintenance of Roadbed/Track/Culverts/ Streets/Sidewalks: To the extent that existing contractual agreements place financial responsibility for crossing signal installations, capital improvements for track beds and roadway surfaces, crossing maintenance costs, and pedestrian gates and sidewalks on cities and counties (and to the extent that no such work is a part of the FDOT's federally-funded grade crossing hazard reduction program), the bill likely has no effect. Those existing contracts remain in place and are not impaired.

To the extent that no agreements are in place covering a HSPR system, the bill may make railroad companies responsible for these costs (unless funded by the federal hazard reduction program, which provides in many cases that railroads do not share in costs). As an example, see *Adrian & Blissfield R. Co. v. Village of Blissfield*, 550 F.3d 533 (2008), holding that a virtually identical Michigan statute was not preempted by the ICCTA.⁸²

Safety Inspections and Inspectors (Section 10)

Present Situation

Section 341.302(8), F.S., authorizes the FDOT to conduct inspections of track and rolling stock, train signals and related equipment, hazardous materials transportation, and train operating practices.

The federal State Rail Safety Participation program uses state safety inspectors in rail safety inspection disciplines. The program emphasizes routine compliance inspections but authorizes states to undertake additional investigative and surveillance activities under certain circumstances. Each state agency is required to enter into an agreement with the FRA that delegates to the state investigative and surveillance authority for federal railroad safety laws. The program includes federal funding to reimburse states for costs of related rail safety inspector technical training.⁸³

The FDOT has a long-standing agreement with the FRA for participation in the federal program, which is periodically renewed. The agreement lists the FDOT's five certified railroad safety inspectors and their areas of responsibility. The agreement calls for the FRA and the FDOT certified inspectors to singly and jointly conduct investigative, surveillance, and enforcement activities within Florida under the FRSA and sets out the following safety areas or disciplines for surveillance: track, motive power and equipment, signals and train control, operations, and hazardous materials. These inspectors must be capable of composing narrative reports and recording data on standard report forms for submission to the FRA.

Effect of Proposed Changes

Section 10 of the bill creates s. 341.6101, F.S., requiring the FDOT's railroad inspectors to be certified by the FRA in accordance with the State Rail Safety Participation Program. The inspectors must coordinate their activities with those of federal rail inspectors in compliance with

⁸² The court specifically did not address FRSA preemption.

⁸³ See the FRA website available at: <https://www.fra.dot.gov/Page/P0014>. (Last visited October 27, 2017.) See also 49 C.F.R. part 212.

49 C.F.R. part 212 and any other federal regulations governing state safety participation. Unless otherwise confidential under state or federal law, the FDOT inspectors must report in writing the results of their inspections in the manner and on forms prescribed by the FDOT. The reports must be made available on the FDOT's website for the public to access.

Research reveals no provisions of federal or state law that expressly address the confidentiality of rail inspection reports. Under Florida law, these reports appear to fall within the definition in s. 119.07(12), F.S., of "public records."⁸⁴ Such reports may be available from the FRA if requested under the Freedom of Information Act (FOIA).⁸⁵ The FOIA expressly exempts, for example, trade secrets and commercial or financial information from its application.⁸⁶

The FDOT appears to be in compliance with the requirements of this section of the bill, except that it currently does not publish the reports on its website.⁸⁷ To the extent that federal law prescribes the forms that the FDOT's inspectors must use in completing their inspection reports, any FDOT rule relating to forms may be preempted. Whether publication of the reports on the FDOT's website is permissible under federal law is unclear. See discussion above under the heading, "Accident Reports."

Fencing Requirements (Section 11)

Present Situation

Research reveals that while the federal government has studied the use of fencing to restrict access to railroad right-of-way by pedestrians, federal law apparently does not require railroads to install such fencing. A 2014 U.S.D.O.T. technical report expresses the view that fencing along an entire railroad right-of-way would not be reasonable due to the size of the U.S. rail system and necessary access points. The report notes that targeting high-risk areas for fencing may be possible and acknowledges an ongoing debate as to the effectiveness of fencing as a method for increasing rail safety.⁸⁸

Other state jurisdictions do have laws relating to fencing of railroad right-of-way and making railroads liable for damages resulting from the failure to do so. For example, Minnesota requires every railroad company to build and maintain fences on each side of all lines of its railroad, with certain exceptions.⁸⁹ New York requires every railroad to erect and maintain a fence along the boundary line of its right-of-way if, after a hearing, a determination is made that fencing is necessary. The New York transportation commissioner is authorized to prescribe by order the

⁸⁴ "All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

⁸⁵ 5 U.S.C. 552.

⁸⁶ *Id.*

⁸⁷ See the FDOT's email to committee staff, October 30, 2017. (On file in the Senate Transportation Committee.)

⁸⁸ See the report, *Countermeasures to Mitigate Intentional Deaths on Railroad Rights-of-Way: Lessons Learned and Next Steps*, available at: <https://www.fra.dot.gov/eLib/Details/L16102>. (Last visited November 3, 2017.) . (Last visited October 30, 2017.)

⁸⁹ Section 219.31, Minnesota Statutes.

height, length, materials and design of the fencing.⁹⁰ Research reveals no challenge to these state requirements.

Effect of Proposed Changes

Section 11 of the bill creates s. 341.611, F.S., requiring the FDOT to adopt rules identifying standards for it to conduct field surveys of the rail corridor being used by a HSPR system. The field surveys must indicate areas where fencing is necessary for the public's health, safety, and welfare. The field surveys should, at a minimum, identify pedestrian traffic generators, such as nearby schools and parks, and signs of current pedestrian traffic that crosses the railroad tracks. The FDOT must hold at least one public meeting in each community where new or substantially modified fencing is proposed before designs and plans for such fencing are finalized.

If a determination is made that fence is necessary to protect the surrounding community, the railroad company operating a HSPR system must construct and maintain the fence on both sides of its railroad tracks in a manner sufficient to prevent intrusion. The fencing (at least 4 ½ feet high) must be placed one foot inside the edge of the railroad company's right-of-way, except in locations where the railroad intersects with a highway or road. Ornamental fencing must be used within urban areas; chain link fencing may be used outside of urban areas. The railroad company must maintain the fencing, and is liable for all damages arising from the railroad's failure to construct or maintain a required fence, unless a governmental entity has contractually consented to undertaking the responsibility for maintaining the fence within its jurisdiction.

Whether these provisions would withstand a challenge on grounds of preemption by federal law is unclear.

Safety Improvements/Operation of a HSPR System (Section 12)

Present Situation

Existing agreements between cities and counties place financial responsibility for crossing signal installations, capital improvements for track beds and roadway surfaces, crossing maintenance costs, and pedestrian gates and sidewalks on the cities and counties.

Effect of Proposed Changes

Section 12 of the bill creates s. 341.612, F.S., deeming a railroad company operating a HSPR system solely responsible for all maintenance costs associated with the safety equipment installed at public railroad-highway grade crossings and at pedestrian grade crossings which are related to the system's operation and safety. The bill provides that a governmental entity is not responsible for any costs associated with the maintenance necessary to operate a HSPR system, unless it expressly consents in writing.

The bill also makes a railroad operating a HSPR system solely responsible for all costs associated with the improvements and upgrades at all public railroad-highway grade crossings on which the state does not use federal funds to eliminate hazards and at pedestrian grade crossings relating to the system's operation and safety. A governmental entity is not responsible for such costs unless it expressly consents in writing.

⁹⁰ RRD, Article 3, s. 52-B, Laws of New York.

The bill restates current law, providing that the newly created section does not impair any existing contractual arrangements between a railroad company and a governmental entity within the state. Further, the bill provides that the new section does not require a railroad company to share in the cost of work for the elimination of hazards at public railroad-highway grade crossings on which the state uses federal funds to eliminate hazards.⁹¹

To the extent that existing agreements place responsibility for any portion of the cost of such safety equipment maintenance on the cities and counties, such responsibility appears to remain with the cities and counties under the contracts. In the absence of any such agreement or unless the governmental entity consents in writing to responsibility, the bill would place the responsibility for such costs with the railroad company.

If improvement and upgrade costs are not funded through the federal hazard reduction program, and to the extent that existing agreements place responsibility for such improvement and upgrade costs on the cities and counties, the cities and counties appear to remain responsible. In the absence of an agreement, the bill would place responsibility for such costs with the railroad company.

Enforcement/Jurisdiction/Administrative Fines (Section 13)

Present Situation

Section 341.302(7) and (8), F.S., respectively, require the FDOT to develop and administer state standards relating to the safety and performance of rail systems and, in accordance with the applicable federal regulations, assess penalties for failure to adhere to the standards. The agreement between the FRA and the FDOT covering the State Safety Participation program appears to provide the FDOT with authority to assess penalties under s. 341.302, F.S. However, 49 C.F.R. part 212, subpart B, 212.113 expressly reserves to the FRA the authority to assess penalties, issue emergency and compliance orders, institute actions for collection of civil penalties or for injunctive relief, and to initiate all other enforcement actions under the federal railroad safety laws. States may bring an action for assessment and collection of a civil penalty in a federal district court of proper venue if the FRA has not timely acted on a state's request to initiate an action.

Section 316.640 provides for enforcement of the traffic laws of this state and assigns authority to various state, county, and municipal entities for that purpose. Generally, the Florida Highway Patrol, county sheriff offices, and municipal police departments are authorized to enforce all of the traffic laws of this state on all streets and highways. The FDOT is granted authority to enforce on all the streets and highways of this state all laws applicable within its authority.⁹²

Section 335.141(4), F.S., grants the FDOT authority to regulate the speed limits of railroad traffic on a municipal, county, regional, or statewide basis as established by an FDOT order; *i.e.*, agency action under the provisions of chapter 120. Any penalty for a violation of s. 316.640, F.S., must be imposed on the railroad company guilty of a violation. The FDOT's jurisdiction to

⁹¹ See the subheading, "Railroad-Highway Grade Crossing Responsibility," *supra* at p. 14.

⁹² Section 316.640(1)(b)1., F.S.

enforce speed limits of railroad traffic is as provided in s. 316.640, F.S. The FDOT advises it does not have a rule regulating train speed limits and does not regulate train speeds in any fashion given case law holding that such state regulations are preempted.⁹³

Effect of Proposed Changes

Section 13 of the bill creates s. 341.613, F.S., providing that jurisdiction to enforce the bill's provisions shall be as provided by s. 316.640, and any penalty for violation of those provisions shall be imposed on the railroad company that commits such violation.

The validity of this provision appears to turn on whether the specific requirement being enforced is preempted.

Section 14 creates s. 341.614, F.S., providing for severability of invalid provisions or applications of the act.

Section 15 of the bill provides the act take effect on July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact to railroads is largely indeterminate, depending on whether given provisions in the bill are federally preempted. Railroads may incur costs associated with the following:

- Reporting requirements (section 7);

⁹³ FDOT email to committee staff, March 13, 2017. *See CSX Transportation, Inc. v. Easterwood*, 507 U.S. 658 (1993), holding: "Although, on their face, § 213.9(a)'s provisions address only the maximum speeds at which trains are permitted to travel given the nature of the track on which they operate, the overall structure of the Secretary's regulations demonstrates that these speed limits were adopted with safety concerns in mind and should be understood as "covering the subject matter" in question."

- PTC safety technology installation and use (section 8);
- Railroad-highway grade crossing responsibilities (sections 8 and 12);
- Fencing requirements (section 11);
- Rail corridor improvements or upgrades (section 9); and
- Penalties for any violations (section 13).

To the extent the bill's authorizations in section 13 for the FDOT to assess penalties is not preempted, railroads may incur costs for penalties if violations occur. Railroads may experience increased litigation costs related to preemption, regulatory compliance, and impairment of contract issues.

C. Government Sector Impact:

To the extent that sections 8, 9, and 12 allow a local government to avoid future costs that would be incurred for railroad-highway grade crossing construction, maintenance and repairs, the local government would have an indeterminate positive fiscal impact.

An indeterminate negative fiscal impact to the FDOT is expected for expenses associated with:

- Adopting rules (sections 5, 7, and 11);
- Publishing accident and inspection reports (sections 7 and 10);
- Holding public meetings (section 11).

An indeterminate negative fiscal impact to the FDEM is expected for expenses associated with providing the required hazardous material training (section 6).

To the extent that there is litigation involving any of the regulatory provisions of this bill, governmental entities may experience increased litigation costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 341.601, 341.602, 341.603, 341.604, 341.605, 341.606, 341.607, 341.608, 341.609, 341.6101, 341.611, 341.612, 341.613, and 341.614.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on November 14, 2017:

A technical amendment was adopted to revise an incorrect reference to federal regulations governing PTC systems.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/15/2017	.	
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	.	
	.	

The Committee on Transportation (Mayfield) recommended the following:

Senate Amendment

Delete line 219
and insert:
C.F.R. part 236.

By Senator Mayfield

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1 A bill to be entitled
 2 An act relating to high-speed passenger rail; creating
 3 s. 341.601, F.S.; providing a short title; creating s.
 4 341.602, F.S.; providing definitions; creating s.
 5 341.603, F.S.; providing legislative intent; creating
 6 s. 341.604, F.S.; providing applicability; creating s.
 7 341.605, F.S.; providing powers and duties of the
 8 Florida Department of Transportation; authorizing the
 9 department to regulate railroads where that authority
 10 is not federally preempted; authorizing the department
 11 to collect information from relevant parties;
 12 requiring the department to keep certain records;
 13 requiring the department to adopt rules; creating s.
 14 341.606, F.S.; requiring the Florida Division of
 15 Emergency Management to offer, under certain
 16 circumstances, the local communities and local
 17 emergency services located along the rail corridor
 18 training specifically designed to help them respond to
 19 an accident involving rail passengers or hazardous
 20 materials; creating s. 341.607, F.S.; providing
 21 reporting requirements for certain railroad companies;
 22 requiring the department to publish certain
 23 information on its website; requiring the department,
 24 in coordination with the Federal Railroad
 25 Administration and other necessary entities, to
 26 develop certain rules; specifying that reporting
 27 requirements are for informational purposes only and
 28 are not to be used to economically regulate a railroad
 29 company; creating s. 341.608, F.S.; specifying minimum

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30 safety standards for a high-speed passenger rail
 31 system; requiring certain railroad companies to comply
 32 with certain federal laws and regulations; specifying
 33 safety equipment and technology requirements for
 34 certain railroad companies; requiring certain railroad
 35 companies to meet specified requirements before
 36 operating a high-speed passenger rail system; creating
 37 s. 341.609, F.S.; requiring construction, maintenance,
 38 and repair of certain infrastructure by certain
 39 railroad companies; specifying requirements for
 40 certain roadbed modifications; providing for
 41 construction; creating s. 341.6101, F.S.; requiring
 42 the department's railroad inspectors, in accordance
 43 with a specified program, to meet certain
 44 certification requirements and to coordinate their
 45 activities with those of federal inspectors in the
 46 state in compliance with certain federal regulations;
 47 requiring the inspectors to report the results of
 48 their inspections, subject to certain requirements;
 49 requiring the reports to be made available on the
 50 department's website unless they are deemed
 51 confidential; creating s. 341.611, F.S.; requiring the
 52 department to adopt rules that identify standards for
 53 it to conduct field surveys of certain rail corridors;
 54 providing requirements for the field surveys;
 55 requiring the department to hold certain public
 56 meetings; requiring certain railroad companies to
 57 construct and maintain fences under certain
 58 circumstances; providing fencing requirements;

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providing that a railroad company operating a high-speed passenger rail system is liable for all damages arising from its failure to construct or maintain the fence, under certain circumstances; creating s. 341.612, F.S.; requiring a railroad company operating a high-speed passenger rail system to be solely responsible for certain maintenance, improvement, and upgrade costs; specifying that a governmental entity is not responsible for any costs associated with the maintenance and improvements necessary to operate a high-speed passenger rail system unless the governmental entity expressly consents in writing; providing construction; creating s. 341.613, F.S.; establishing jurisdiction for the state to enforce specified provisions; requiring penalties for violations of specified provisions to be imposed upon the railroad company that commits such violations; creating s. 341.614, F.S.; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 341.601, Florida Statutes, is created to read:

341.601 Short title.—Sections 341.601-341.614 shall be known as the "Florida High-Speed Passenger Rail Safety Act."

Section 2. Section 341.602, Florida Statutes, is created to read:

341.602 Definitions.—As used in ss. 341.601-341.614, the

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term:

(1) "Department" means the Florida Department of Transportation.

(2) "Freight railroad carrier" means any person, railroad corporation, or other legal entity in the business of providing freight rail transportation.

(3) "Governmental entity" means the state, any of its agencies, or any of its political subdivisions.

(4) "Hazardous materials" includes all materials and substances that are now designated or defined as hazardous by 49 C.F.R. parts 100-199 and its implementing regulations, by 49 U.S.C. s. 9601, and in any state law, rule, or program that regulates handling or transporting of such materials, wastes, or substances.

(5) "High-speed passenger rail system" means any new intrastate passenger rail system that operates or proposes to operate its passenger trains at a maximum speed in excess of 80 miles per hour and which was not carrying passengers before January 1, 2017.

(6) "Pedestrian grade crossing" means a separate sidewalk or pathway where pedestrians, but not vehicles, cross railroad tracks.

(7) "Public railroad-highway grade crossing" means a location at which a railroad track is crossed at grade by a public road.

(8) "Rail corridor" means a linear, continuous strip of real property that is used for rail service. The term includes the corridor and structures essential to railroad operations, including the land, buildings, improvements, rights-of-way,

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117 easements, rail lines, rail beds, guideway structures, switches,
 118 yards, parking facilities, power relays, switching houses, rail
 119 stations, any ancillary development, and any other facilities or
 120 equipment used for the purposes of construction, operation, or
 121 maintenance of a railroad that provides rail service.

122 (9) "Railroad company" means any individual, partnership,
 123 association, corporation, or company and its respective lessees,
 124 trustees, or receivers, appointed by a court, which develops or
 125 provides ground transportation that runs on rails, including,
 126 but not limited to, any of the following:

127 (a) A high-speed passenger rail system.

128 (b) A freight railroad carrier.

129 (c) A company that owns a rail corridor.

130 Section 3. Section 341.603, Florida Statutes, is created to
 131 read:

132 341.603 Public purpose and intent.—It is the intent of the
 133 Legislature to:

134 (1) Encourage the creation of safe and cost-effective
 135 transportation options for this state's residents and visitors,
 136 including high-speed passenger rail systems.

137 (2) Promote and enhance the safety of high-speed passenger
 138 rail systems operating within the state to protect the health,
 139 safety, and welfare of the public.

140 Section 4. Section 341.604, Florida Statutes, is created to
 141 read:

142 341.604 Applicability.—This act applies to any railroad
 143 company operating a high-speed passenger rail system and any
 144 railroad company that allows a high-speed passenger rail system
 145 to operate on or within its rail corridor.

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146 Section 5. Section 341.605, Florida Statutes, is created to
 147 read:

148 341.605 Powers and duties of the department; rules.—

149 (1) The department may regulate railroad companies in this
 150 state insofar as such authority is not preempted by federal laws
 151 or regulations.

152 (2) The department may obtain from any party all necessary
 153 information to enable it to perform its duties and carry out the
 154 requirements set forth in this act.

155 (3) The department shall keep a record of all its findings,
 156 decisions, determinations, and investigations carried out under
 157 this act.

158 (4) The department shall adopt rules, pursuant to the
 159 requirements of chapter 120, to administer this act.

160 Section 6. Section 341.606, Florida Statutes, is created to
 161 read:

162 341.606 Training for local emergency services.—If a high-
 163 speed passenger rail system operates within the same rail
 164 corridor or on the same set of tracks as another railroad
 165 company that transports hazardous materials, the Florida
 166 Division of Emergency Management must offer the local
 167 communities and local emergency services located along the rail
 168 corridor training specifically designed to help them respond to
 169 an accident involving rail passengers or hazardous materials.

170 Section 7. Section 341.607, Florida Statutes, is created to
 171 read:

172 341.607 Reporting requirements.—

173 (1) A railroad company operating a high-speed passenger
 174 rail system shall furnish to the department a copy of the

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175 accident reports filed with the Federal Railroad Administration
 176 for each train accident that occurs within the rail corridor.
 177 (2) The department shall annually publish on its official
 178 website a compendium of the reports that include any fatalities,
 179 injuries, and accidents during the reporting timeframe which
 180 have occurred within a rail corridor where a high-speed
 181 passenger rail system operates.
 182 (3) A railroad company that transports liquefied natural
 183 gas on the same tracks or within the same rail corridor used by
 184 a high-speed passenger rail system within the state must submit
 185 an annual report to the department containing:
 186 (a) All insurance carried by the railroad company which
 187 covers any losses resulting from a reasonable worst-case
 188 unplanned release of liquefied natural gas.
 189 (b) Coverage amounts, limitations, and other conditions of
 190 the insurance identified in paragraph (a).
 191 (c) The average and largest liquefied natural gas train, as
 192 measured in metric tons, operated in the state by the railroad
 193 company in the previous calendar year.
 194 (d) Information sufficient to demonstrate the railroad
 195 company's ability to pay the costs of remediating a reasonable
 196 worst-case unplanned release of liquefied natural gas,
 197 including, but not limited to, insurance, reserve accounts,
 198 letters of credit, or other financial instruments or resources
 199 on which the company can rely to pay all such costs. The
 200 department, in coordination with the Federal Railroad
 201 Administration and other public and private entities, as
 202 necessary, shall develop rules to determine applicable criteria
 203 for a reasonable worst-case unplanned release of liquefied

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204 natural gas.
 205 (4) All reporting requirements are for informational
 206 purposes only and may not be used to economically regulate the
 207 railroad company.
 208 Section 8. Section 341.608, Florida Statutes, is created to
 209 read:
 210 341.608 Minimum safety standards for high-speed passenger
 211 rail.—
 212 (1) A railroad company operating a high-speed passenger
 213 rail system shall comply with all of the federal laws and
 214 regulations administered by the Federal Railroad Administration.
 215 (2) A railroad company operating a high-speed passenger
 216 rail system must install safety equipment that has been approved
 217 by the Federal Railroad Administration. Safety technology at a
 218 minimum shall include positive train control pursuant to 49
 219 C.F.R. part 229.
 220 (3) Before operating a high-speed passenger rail system, a
 221 railroad company shall also:
 222 (a) Install or realign crossing gates, including those at
 223 severely skewed, acute-angled locations as identified by either
 224 the department or the Federal Railroad Administration, so the
 225 gates are parallel to the tracks and in accordance with the most
 226 recent edition of the Manual on Uniform Traffic Control Devices
 227 published by the Federal Highway Administration and adopted by
 228 the department pursuant to s. 316.0745.
 229 (b) Equip all automatic public railroad-highway grade
 230 crossing warning systems with remote health monitoring
 231 technology capable of constantly monitoring the highway-railroad
 232 crossing to:

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233 1. Detect false activations;
 234 2. Detect other crossing signal malfunctions; and
 235 3. Notify the train dispatcher and railroad maintenance
 236 personnel whenever such a malfunction is detected.
 237 (c) Construct and maintain fencing in accordance with s.
 238 341.611.
 239 Section 9. Section 341.609, Florida Statutes, is created to
 240 read:
 241 341.609 Maintenance and repair of roadbeds, tracks,
 242 culverts, and certain streets and sidewalks.-
 243 (1) A railroad company that constructs or operates a high-
 244 speed passenger rail system on tracks that intersect with a
 245 public street or highway at grade shall, at its sole cost and
 246 expense, construct and thereafter maintain, renew, and repair
 247 all railroad roadbed, track, and railroad culverts within the
 248 confines of the public street or highway, and the streets or
 249 pedestrian grade crossings lying between the rails and for a
 250 distance outside the rails of 1 foot beyond the end of the
 251 railroad ties.
 252 (2) If the railroad company that constructs or operates a
 253 high-speed passenger rail system is required to install safety
 254 improvements that modify the width of a roadbed, the company is
 255 responsible for ensuring that the impacted roadbed meets the
 256 department's transition requirements as set forth in the most
 257 recent edition of the department's Design Standards and the
 258 Manual of Uniform Minimum Standards for Design, Construction and
 259 Maintenance for Streets and Highways.
 260 (3) This section does not impair any existing contractual
 261 agreements between the railroad company operating the high-speed

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262 passenger rail system and a governmental entity within the
 263 state.
 264 Section 10. Section 341.6101, Florida Statutes, is created
 265 to read:
 266 341.6101 Safety inspections and inspectors.-
 267 (1) In accordance with the State Rail Safety Participation
 268 Program, which is designed to promote safety in all areas of
 269 railroad operations to reduce deaths, injuries, and damage to
 270 railroad property, the department's railroad inspectors shall be
 271 certified by the Federal Railroad Administration and shall
 272 coordinate their activities with those of federal inspectors in
 273 the state in compliance with 49 C.F.R. part 212 and any other
 274 federal regulations governing state safety participation.
 275 (2) Unless the results are otherwise confidential under
 276 state or federal law, the department's railroad inspectors shall
 277 report in writing the results of their inspections in the manner
 278 and on forms prescribed by the department. These reports shall
 279 be made available on the department's website for the public to
 280 access.
 281 Section 11. Section 341.611, Florida Statutes, is created
 282 to read:
 283 341.611 Fencing and separation requirements to protect the
 284 public.-
 285 (1) The department shall adopt rules that identify
 286 standards for it to conduct field surveys of the rail corridor
 287 being used by a high-speed passenger rail system. The field
 288 surveys must indicate areas where fencing is necessary for the
 289 health, safety, and welfare of the public.
 290 (2) At a minimum, the field survey should identify

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pedestrian traffic generators, such as nearby schools and parks, and signs of current pedestrian traffic that crosses the railroad tracks. The department must hold at least one public meeting in each community where new or substantially modified fencing is proposed before designs and plans for such fencing are finalized.

(3) Once it has been determined that a fence is necessary to protect the health, safety, and welfare of the surrounding community, the railroad company operating a high-speed passenger rail system shall construct and maintain the fence on both sides of its railroad tracks in a manner sufficient to prevent intrusion.

(4) The fencing must be placed 1 foot inside the edge of the railroad company's right-of-way.

(5) The fencing must be maintained by the railroad company operating a high-speed passenger rail system, unless a governmental entity has contractually consented to undertaking the responsibility for maintaining the fence within its jurisdiction.

(6) The fence must be at least 4 1/2 feet in height. Ornamental fencing must be used within urban areas. Chain-link fencing may be used in locations outside of urban areas.

(7) If a railroad company operating a high-speed passenger rail system neglects to construct or maintain a required fence, the railroad company is liable for all damages arising from its failure to construct or maintain such fence unless another entity is responsible for maintenance under subsection (5).

Section 12. Section 341.612, Florida Statutes, is created to read:

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341.612 Safety improvements associated with the operation of a high-speed passenger rail system.—

(1) A railroad company operating a high-speed passenger rail system shall be solely responsible for all maintenance costs associated with the safety equipment installed at public railroad-highway grade crossings and at pedestrian grade crossings which are related to the system's operation and safety. A governmental entity is not responsible for any costs associated with the maintenance necessary to operate a high-speed passenger rail system unless the governmental entity expressly consents in writing.

(2) A railroad company operating a high-speed passenger rail system shall be solely responsible for all costs associated with the improvements and upgrades at all public railroad-highway grade crossings on which the state does not use federal funds to eliminate hazards, and at pedestrian grade crossings relating to the system's operation and safety. A governmental entity is not responsible for any costs associated with the improvements necessary to operate a high-speed passenger rail system unless the governmental entity expressly consents in writing.

(3) This section does not impair any existing contractual agreements between a railroad company and a governmental entity within the state.

(4) This section does not require a railroad company to share in the cost of work for the elimination of hazards at public railroad-highway grade crossings on which the state uses federal funds to eliminate hazards.

Section 13. Section 341.613, Florida Statutes, is created

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to read:

341.613 Enforcement.—Jurisdiction to enforce ss. 341.601-341.614 shall be as provided by s. 316.640, and any penalty for a violation of ss. 341.601-341.614 shall be imposed upon the railroad company that commits such violation.

Section 14. Section 341.614, Florida Statutes, is created to read:

341.614 Severability.—If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 15. This act shall take effect July 1, 2018.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/17

Meeting Date

572

Bill Number (if applicable)

Topic Florida High Speed Rail

Amendment Barcode (if applicable)

Name BOB LEDOUX

Job Title SENIOR VICE PRESIDENT

Address 7411 FULLERTON ST SUITE 300
Street

Phone 904-279-3111

JACKSONVILLE FL 32256
City State Zip

Email Robert.Ledoux@frcr.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against ☒ Com
(The Chair will read this information into the record.)

Representing FLORIDA EAST COAST RAILWAY

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Nov 14, 2017

Meeting Date

SB 572

Bill Number (if applicable)

Topic Florida High Speed Passenger Rail Safety Act

Amendment Barcode (if applicable)

Name Russell Roberts

Job Title Vice President, Government Affairs

Address 2855 Le Jeune Roac

Street

Coral Gables

City

FL

State

33134

Zip

Phone 202-604-5952

Email rusty.roberts@allaboardflorida.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing All Aboard Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/2017

Meeting Date

SB 512

Bill Number (if applicable)

Topic High-Speed Rail

Amendment Barcode (if applicable)

Name Lauren Jackson

Job Title Lobbyist

Address 110 6th St #1500

Street

Phone 931-265-8999

Ft. Lauderdale

FL

33301

City

State

Zip

Email lauren@tsecgov.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Broward Metropolitan Planning Organization

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/14/17
Meeting Date

572
Bill Number (if applicable)

Topic High Speed Passenger Rail

Amendment Barcode (if applicable)

Name Joe Mobley

Job Title Principal - The Fiorentino Group

Address 200 W College Phone 850-222-1959
Street

Tallahassee Email _____
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing CSX

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11.14.17

Meeting Date

572

Bill Number (if applicable)

Topic SB 572, HIGH SPEED PASSENGER RAIL

Amendment Barcode (if applicable)

Name CHRISTOPHER EMMANUEL

Job Title POLICY DIRECTOR

Address 136 S BRONCOUGH

Phone 521 1200

Street

TLC

City

FL

State

32301

Zip

Email CEMMANUEL@FLCHAMBER

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA CHAMBER OF COMMERCE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-14-17

Meeting Date

572

Bill Number (if applicable)

Topic High-speed Passenger Rail

Amendment Barcode (if applicable)

Name Kate Cotner

Job Title Asst County Attorney

Address 1801 27th Street

Phone (772) 226-1406

Street

Vero Beach FL 32960

City

State

Zip

Email KCotner@icga.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Indian River County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Governmental Oversight and Accountability
Transportation

JOINT COMMITTEE:

Joint Administrative Procedures Committee,
Alternating Chair

SENATOR KEVIN J. RADER
29th District

November 13, 2017

The Honorable George Gainer
302 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1300

Dear Chairman Gainer:

In accordance with Senate Rule 1.21, I am writing to you to be excused from the Transportation meeting that will be held on November 14, 2017 at 2:00pm due to a business matters that needs my immediate attention. I sincerely apologize for any inconvenience this may cause.

Thank you for your consideration. Please feel free to contact me at 561-866-4020 if you have any questions.

Sincerely

A handwritten signature in cursive script that reads "Kevin Rader".

Kevin Rader
State Senator
District 29

cc: Phillip Miller, Staff Director

REPLY TO:

- ☐ 5301 N. Federal Hwy, Suite 135, Boca Raton, Florida 33487
- ☐ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Committee on Transportation Judge:

Started: 11/14/2017 2:00:59 PM

Ends: 11/14/2017 3:32:52 PM

Length: 01:31:54

2:00:58 PM Meeting Called to order
2:01:06 PM Quorum Present
2:01:48 PM Tab 1 - SB 346 Sen Perry
2:02:47 PM Sen Perry Explains
2:03:40 PM Sen Perry explains the Amendment
2:03:49 PM Call for questions
2:04:05 PM Sen Perry waives to close on the Amen
2:04:12 PM Amen 779198 adopted
2:04:52 PM James "Doc" Reichenbach, State President - Abate of Florida, speaks in opposition
2:05:36 PM Carl Mikyska, Executive Director, Florida MPOAC- waives in support
2:05:53 PM David Cullen, Advocacy Inst for Children, not present
2:06:13 PM Brian Pitts, Justice 2 Jesus, waives in support
2:06:22 PM Sen Perry closes on the bill
2:07:06 PM AA, Marilyn Hudson roll call
2:07:26 PM CS SB 346 recorded favorably
2:07:33 PM Tab 7 SB 504
2:07:50 PM Sen Perry explains the bill
2:08:17 PM Sen Baxley question
2:09:02 PM Sen Perry responds
2:09:11 PM Sen Baxley follow-up
2:09:36 PM Sen Perry response
2:09:41 PM Sen Baxley follow up
2:10:06 PM Sen Baxley follow up
2:10:06 PM Sen Perry responds
2:10:29 PM Sen Baxley follow up
2:10:45 PM Jennifer Langston, LAD, Dept of Motor Vehicles speaker, responds
2:11:17 PM Sen Baxley follow up question
2:11:26 PM Sen Perry responds
2:11:50 PM Sen Baxley final question
2:11:58 PM Sen Perry responds
2:12:15 PM James Harold Thompson, Attorney, Polaris, waives in support
2:12:29 PM James "Doc" Reichenbach, II, Abate of Florida, speaks in opposition
2:17:48 PM Brian Pitts, Jesus2Jesus, speaks to inform
2:19:49 PM Sen Galvano question/comment
2:20:59 PM Sen Hukill questions
2:21:53 PM Sen Perry closes on the bill
2:22:44 PM AA, Marilyn Hudson, Roll Call on SB 504
2:22:55 PM SB 504 recorded favorably
2:23:05 PM Tab SB 322 Sen Book
2:23:27 PM Sen Book explains the bill
2:24:39 PM Questions on the bill
2:24:46 PM Sen Rouson question
2:25:00 PM Tim Qualls, Executive Director, Florida Tax Collectors, responds
2:25:38 PM Chuck Hewett, Tax Collector, Lafayette County, waives in support
2:25:55 PM Ben Anderson, Tac Collector, Okaloosa County, waives in support
2:26:17 PM Brian Pitts, Justice 2 Jesus, speaks to inform
2:29:34 PM Sen Baxley comments
2:32:36 PM Sen Rouson comments
2:33:21 PM Chair Gainer comments
2:33:57 PM Sen Book closes on the bill
2:34:13 PM AA, Marilyn Hudson calls Roll on SB 322
2:34:23 PM SB 322 recorded favorably

2:34:32 PM Tab 5 SB 382
2:34:42 PM Sen Book explains the bill
2:35:58 PM Sen Baxley comments
2:36:41 PM Sen Book waives close
2:37:25 PM AA, Marilyn Hudson Roll Call
2:37:34 PM SB 382 recorded favorably
2:37:41 PM Tab 8 SB 572 Sen Mayfield
2:37:50 PM Sen Mayfield explains
2:42:40 PM Sen Hukill question
2:43:39 PM Sen Mayfield response
2:43:42 PM Sen Hukill follow up
2:44:12 PM Sen Baxley question
2:44:24 PM Sen Mayfield responds
2:44:44 PM Amendment - Barcode 729082 by Sen Mayfield
2:45:20 PM Chair calls for questions on the amendment
2:45:36 PM Sen Mayfield waives close on the amendment
2:45:57 PM Amendment is adopted
2:46:04 PM Bob Ledoux, Florida East Coast Railway, speaks in opposition
2:47:28 PM Russell Roberts, Vice President, All Aboard Florida, speaks in opposition
2:53:35 PM Sen Hukill with question
2:54:35 PM Mr. Roberts with response
2:55:05 PM Sen Hukill question
2:55:12 PM Mr. Roberts with response
2:55:37 PM Sen Hukill follow up
2:55:45 PM Mr. Roberts with response
2:56:59 PM Sen Hukill with follow up question
2:57:42 PM Sen Rouson question
2:58:11 PM Mr. Roberts responds
2:59:28 PM Sen Rouson question
2:59:56 PM Mr. Roberts responds
3:01:40 PM Sen Rouson follow up question
3:02:42 PM Mr. Roberts with response
3:02:49 PM Lauren Jackson, Broward County MPO, speaks in opposition
3:03:22 PM Joe Mobley, CSX, waives in opposition
3:04:18 PM Christopher Emmanuel, Florida Chamber of Commerce, speaks in opposition
3:05:31 PM Chair calls for questions
3:05:46 PM Kate Cotner, Indian River County, speaks in favor
3:10:00 PM Sen Baxley comments
3:12:24 PM Sen Hukill comments
3:13:04 PM Vice Chair Rouson comments
3:14:24 PM Sen Taddeo comments
3:15:19 PM Chair Gainer comments
3:16:10 PM Sen Book closes on the bill
3:18:03 PM AA, Marilyn Hudson Roll Call
3:18:16 PM CS SB 572 recorded favorably
3:18:37 PM Tab 2 SB 172
3:18:58 PM Sen Galvano explains the bill
3:19:20 PM Brian pitts, Justice 2 Jesus speaks to inform
3:21:42 PM Sen Galvano closes on the bill
3:22:42 PM AA, Marilyn Hudson , Roll Call
3:23:05 PM SB 172 recorded favorably
3:23:15 PM Tab 1 SB 160 Sen Bean
3:23:33 PM Sen Bean explains the bill
3:24:56 PM Brittany Dover, Ducks Unlimited, waives in support
3:25:31 PM Brian Pitts, Justice 2 Jesus, speaks in to inform
3:29:31 PM Sen Baxley comments
3:31:29 PM Roll Call
3:32:02 PM SB 160 recorded favorably
3:32:07 PM Sen Rouson moves to adjourn
3:32:11 PM Meeting adjourned